

AMENDED IN ASSEMBLY JULY 2, 2002
AMENDED IN ASSEMBLY JUNE 24, 2002
AMENDED IN ASSEMBLY JUNE 10, 2002
AMENDED IN ASSEMBLY APRIL 1, 2002
AMENDED IN SENATE JANUARY 7, 2002

SENATE BILL

No. 701

Introduced by Senator Torlakson

February 23, 2001

An act to amend Sections 33333.4, 33333.6, 33333.8, 33333.10, 33333.11, 33334.2, 33334.3, 33334.4, 33334.14, 33334.22, 33411.3, 33413, 33487, 33490, 33492.13, 50052.5, 50053, 50079.5, and 50105 of, to amend and renumber Section 33413.5 of, to add and repeal Sections 33334.28 and 33413.8 of, and to repeal Sections 33333.13 and 33411.5 of, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 701, as amended, Torlakson. Redevelopment.

(1) The existing Community Redevelopment Law ~~allows a redevelopment agency that adopted a redevelopment plan on or before December 31, 1993, to amend that plan to extend the time limit on its effectiveness for up to 10 additional years, if it adopts a resolution that finds, among other things, that the community has adopted a housing element, or, if applicable, an eligible city or county within the jurisdiction of the San Diego Association of Governments has adopted a self-certification of compliance with its adopted housing element, as specified. Existing law requires every redevelopment agency to comply~~

~~with its obligations regarding the provision of affordable housing prior to the time limit on the effectiveness of the redevelopment plan.~~

~~This bill would, among other things, delete a provision for a finding in that resolution that, if applicable, an eligible city or county within the jurisdiction of the San Diego Association of Governments has adopted a self-certification of compliance with its adopted housing element, and would delete a provision prohibiting *prohibits* the Redevelopment Agency of the City of Oakland from receiving specified property tax revenue that the East Bay Regional Park District would be entitled to receive if a redevelopment plan had not been amended.~~

This bill would delete this prohibition.

(2) Existing law requires a redevelopment agency to use moneys in its Low and Moderate Income Housing Fund to increase, improve, and preserve the supply of low- and moderate-income housing, which is defined to include the preservation of certain units for a specified period of time.

This bill, instead, would require those units to be preserved for the longest feasible time, but not less than 55 years. It would also require the redevelopment agency to comply with its affordable housing obligation prior to exceeding a limit on the number of tax dollars that may be divided and allocated if required by specified provisions.

(3) Existing law requires a redevelopment agency that adopts a redevelopment plan to also adopt an implementation plan containing prescribed information, including how the project will implement, among other things, a requirement that the agency expend, over the duration of the implementation plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low income and very low income in at least the same proportion as the total number of housing units needed for each of those income groups bears to the total number of units needed for persons of moderate, low, and very low income within the community, and to assist housing that is available to families with children, as prescribed.

This bill would, among other things, require the implementation plan to address specified matters relating to that requirement. It would, until January 6, 2012, exempt the Redevelopment Agency of the City of Covina from specified expenditure requirements regarding these moneys.

(4) Existing law requires the agency to periodically hold a hearing to review the redevelopment plan and the implementation plan, and requires notice of that hearing to be published, as specified.



This bill would require that review to address prescribed matters relating to replacement dwelling units, project area housing, and the disposition of Low and Moderate Income Housing Fund moneys. The bill would additionally require notice of that hearing to also be mailed to persons and agencies that have requested notice.

(5) Existing law authorizes until January 1, 2006, the Redevelopment Agency for the City of Lancaster to purchase or otherwise acquire, or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on mobilehome parks in which residents rent spaces and either rent or own the mobilehome occupying their spaces, that restrict the cost of renting or purchasing those units, under prescribed conditions.

This bill would authorize until January 1, 2006, the Redevelopment Agency for the City of Fairfield to purchase or otherwise acquire, or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on mobilehome parks in which residents rent spaces and either rent or own the mobilehome occupying their spaces, that restrict the cost of renting or purchasing those units, under prescribed conditions.

(6) The bill would make additional conforming and clarifying changes relating to redevelopment agency assistance for low- and moderate-income housing units.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33333.4 of the Health and Safety Code
2 is amended to read:
3 33333.4. (a) Every legislative body that adopted a final
4 redevelopment plan prior to October 1, 1976, that contains the
5 provisions set forth in Section 33670 but does not contain all of the
6 limitations required by Section 33333.2, shall adopt an ordinance
7 on or before December 31, 1986, that contains all of the following:
8 (1) A limitation on the number of dollars of taxes that may be
9 divided and allocated to the redevelopment agency pursuant to the
10 plan, including any amendments to the plan. Taxes shall not be
11 divided and shall not be allocated to the redevelopment agency
12 beyond that limitation, except as necessary to comply with
13 subdivision (a) of Section 33333.8.

(2) A time limit on the establishing of loans, advances, and indebtedness to finance in whole, or in part, the redevelopment project. No loans, advances, or indebtedness to be repaid from the allocation of taxes shall be established or incurred by the agency beyond the time limitation, except as necessary to comply with subdivision (a) of Section 33333.8.

(3) A time limit, not to exceed 12 years, for commencement of eminent domain proceedings to acquire property within the project area.

(b) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(c) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit allocation of taxes to an agency to the extent required to eliminate project deficits created under subdivision (g) of Section 33334.6 in accordance with the plan adopted pursuant thereto for the purpose of eliminating the deficit or to comply with subdivision (a) of Section 33333.8. In the event of a conflict between these limitations and the obligations under Section 33334.6 or subdivision (a) of Section 33333.8, the legislative body shall amend the ordinance adopted pursuant to this section to modify the limitations to the extent necessary to permit compliance with the plan adopted pursuant to subdivision (g) of Section 33334.6, to permit compliance with subdivision (a) of Section 33333.8, and to allow full expenditure of moneys in the agency's Low and Moderate Income Housing Fund in accordance with Section 33334.3. The procedure for amending the ordinance pursuant to this subdivision shall be the same as for adopting the ordinance under subdivision (b).

(d) This section shall not be construed to allow the impairment of any obligation or indebtedness incurred by the legislative body or the agency pursuant to this part.

(e) In any litigation to challenge or attack any ordinance adopted pursuant to this section, the court shall sustain the actions of the legislative body and the agency unless the court finds those

1 actions were arbitrary or capricious. The Legislature finds and
2 declares that this is necessary because redevelopment agencies
3 with project areas established prior to October 1, 1976, have
4 incurred existing obligations and indebtedness and have adopted
5 projects, programs, and activities with the authority to receive and
6 pledge the entire allocation of taxes authorized by Section 33670
7 and that it is necessary to protect against the possible impairment
8 of existing obligations and indebtedness and to allow the
9 completion of adopted projects and programs.

10 (f) The ordinance adopted by the legislative body in
11 compliance with this section does not relieve any agency of its
12 obligations under Section 33333.8, 33334.2, 33334.3, Article 9
13 (commencing with Section 33410), or any other requirement
14 contained in this part.

15 (g) A redevelopment plan adopted on or after October 1, 1976,
16 and prior to January 1, 1994, containing the provisions set forth in
17 Section 33670, shall also contain:

18 (1) A limitation on the number of dollars of taxes that may be
19 divided and allocated to the agency pursuant to the plan, including
20 any amendments to the plan. Taxes shall not be divided and shall
21 not be allocated to the agency beyond this limitation, except
22 pursuant to amendment of the redevelopment plan, or as necessary
23 to comply with subdivision (a) of Section 33333.8.

24 (2) A time limit, not to exceed 12 years, for commencement of
25 eminent domain proceedings to acquire property within the project
26 area. This time limit may be extended only pursuant to amendment
27 of the redevelopment plan.

28 SEC. 2. Section 33333.6 of the Health and Safety Code is
29 amended to read:

30 33333.6. The limitations of this section shall apply to every
31 redevelopment plan adopted on or before December 31, 1993.

32 (a) The effectiveness of every redevelopment plan to which
33 this section applies shall terminate at a date that shall not exceed
34 40 years from the adoption of the redevelopment plan or January
35 1, 2009, whichever is later. After the time limit on the effectiveness
36 of the redevelopment plan, the agency shall have no authority to
37 act pursuant to the redevelopment plan except to pay previously
38 incurred indebtedness, to comply with Section 33333.8 and to
39 enforce existing covenants, contracts, or other obligations.

(b) Except as provided in subdivisions (f) and (g), a redevelopment agency may not pay indebtedness or receive property taxes pursuant to Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision (b).

(c) (1) If plans that had different dates of adoption were merged on or before December 31, 1993, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan. If an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by this section shall commence, with respect to the redevelopment plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment.

(2) If plans that had different dates of adoption are merged on or after January 1, 1994, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan.

(d) (1) Unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time limit established by this section or to establish time limits that do not exceed the provisions of subdivision (b) or (c).

(2) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(e) (1) If a redevelopment plan adopted prior to January 1, 1994, contains one or more limitations required by this section, and the limitation does not exceed the applicable time limit

1 required by this section, this section shall not be construed to
2 require an amendment of this limitation.

3 (2) A redevelopment plan adopted prior to January 1, 1994, that
4 has a limitation shorter than the terms provided in this section may
5 be amended by a legislative body by adoption of an ordinance on
6 or after January 1, 1999, but on or before December 31, 1999, to
7 extend the limitation, provided that the plan as so amended does
8 not exceed the terms provided in this section. In adopting this
9 ordinance, neither the legislative body nor the agency is required
10 to comply with Section 33354.6 or Article 12 (commencing with
11 Section 33450) or any other provision of this part relating to the
12 amendment of redevelopment plans. On or after January 1, 2002,
13 a redevelopment plan may be amended by a legislative body by
14 adoption of an ordinance to eliminate the time limit on the
15 establishment of loans, advances, and indebtedness required by
16 this section prior to January 1, 2002. In adopting this ordinance,
17 neither the legislative body nor the agency is required to comply
18 with Section 33354.6 or Article 12 (commencing with Section
19 33450) or any other provision of this part relating to the
20 amendment of redevelopment plans, except that the agency shall
21 make the payment to affected taxing entities required by Section
22 33607.7.

23 (f) The limitations established in the ordinance adopted
24 pursuant to this section shall not be applied to limit the allocation
25 of taxes to an agency to the extent required to comply with Section
26 33333.8. In the event of a conflict between these limitations and
27 the obligations under Section 33333.8, the limitations established
28 in the ordinance shall be suspended pursuant to Section 33333.8.

29 (g) This section shall not be construed to affect the validity of
30 any bond, indebtedness, or other obligation, including any
31 mitigation agreement entered into pursuant to Section 33401,
32 authorized by the legislative body, or the agency pursuant to this
33 part, prior to January 1, 1994. This section shall not be construed
34 to affect the right of an agency to receive property taxes, pursuant
35 to Section 33670, to pay the bond, indebtedness, or other
36 obligation.

37 (h) A redevelopment agency shall not pay indebtedness or
38 receive property taxes pursuant to Section 33670, with respect to
39 a redevelopment plan adopted prior to January 1, 1994, after the
40 date identified in subdivision (b) or the date identified in the

1 redevelopment plan, whichever is earlier, except as provided in
2 paragraph (2) of subdivision (e), in subdivision (g), or in Section
3 33333.8.

4 (i) The Legislature finds and declares that the amendments
5 made to this section by the act that adds this subdivision are
6 intended to add limitations to the law on and after January 1, 1994,
7 and are not intended to change or express legislative intent with
8 respect to the law prior to that date. It is not the intent of the
9 Legislature to affect the merits of any litigation regarding the
10 ability of a redevelopment agency to sell bonds for a term that
11 exceeds the limit of a redevelopment plan pursuant to law that
12 existed prior to January 1, 1994.

13 (j) If a redevelopment plan is amended to add territory, the
14 amendment shall contain the time limits required by Section
15 33333.2.

16 SEC. 3. Section 33333.8 of the Health and Safety Code is
17 amended to read:

18 33333.8. (a) Every redevelopment agency shall comply with
19 and fulfill its obligations with regard to the provision of affordable
20 housing as required by this part prior to the time limit on the
21 effectiveness of the redevelopment plan established pursuant to
22 Sections 33333.2, 33333.6, and 33333.10, and before the agency
23 exceeds a limit on the number of dollars of taxes that may be
24 divided and allocated to the redevelopment agency if required by
25 Section 33333.4 or the limit on the number of dollars of taxes in
26 a redevelopment plan. A legislative body may not adopt an
27 ordinance terminating a redevelopment project area if the agency
28 has not complied with its affordable housing obligations.
29 Notwithstanding any other provision of law, this section shall
30 apply to each redevelopment agency and each redevelopment
31 project area established or merged pursuant to this part and Part 1.5
32 (commencing with Section 34000), including project areas
33 authorized pursuant to this chapter and each individual project area
34 that is authorized pursuant to any other provision of law.

35 (1) The affordable housing obligations specified in subdivision
36 (a) shall include all of the following:

37 (A) The obligation to make deposits to and expenditures from
38 the Low and Moderate Income Housing Fund pursuant to Sections
39 33334.2, 33334.3, 33334.4, 33334.6, 33487, 33492.16, and other
40 similar and related statutes.



1 (B) The obligation to eliminate project deficits pursuant to
2 Sections 33334.6, 33487, 33492.16, and other similar and related
3 statutes.

4 (C) The obligation to expend or transfer excess surplus funds
5 pursuant to Section 33334.12 and other similar and related
6 statutes.

7 (D) The obligation to provide relocation assistance pursuant to
8 Article 9 (commencing with Section 33410), Section 7260 of the
9 Government Code, or other applicable relocation laws.

10 (E) The obligation to provide replacement housing pursuant to
11 subdivision (a) of Section 33413, Article 9 (commencing with
12 Section 33410), and other similar and related statutes.

13 (F) The obligation to provide inclusionary housing pursuant to
14 Section 33413 and other similar and related statutes and
15 ordinances.

16 (2) A redevelopment agency shall not adopt an ordinance
17 terminating a redevelopment project area if the agency has not
18 complied with these obligations.

19 (b) If, on the date of the time limit on the effectiveness of the
20 redevelopment plan, a redevelopment agency has not complied
21 with subdivision (a), the time limit on the effectiveness of the
22 redevelopment plan, and, if necessary, the time limit for
23 repayment of indebtedness, shall be suspended until the agency
24 has complied with subdivision (a). In addition, the agency shall
25 receive and use all tax increment funds that are not pledged to
26 repay indebtedness until the agency has fully complied with its
27 obligations.

28 (c) If, on the date of the time limit on the repayment of
29 indebtedness, the agency has not complied with subdivision (a),
30 the time limit on the repayment of indebtedness shall be suspended
31 until the agency has complied with subdivision (a). In addition, the
32 agency shall receive and use tax increment funds until the agency
33 has fully complied with its obligations.

34 (d) If, on the date of the time limit on the repayment of
35 indebtedness, the agency has complied with its obligations under
36 subdivision (a) and has moneys remaining in the Low and
37 Moderate Income Housing Fund, the agency shall transfer the
38 remaining moneys to a low and moderate income housing fund or
39 account for a different project area within the agency's
40 jurisdiction, if one exists, or if a different project area does not

1 exist, the agency shall either transfer the remaining moneys to a
2 special fund of the community or to the community or county
3 housing authority. The community, community housing authority,
4 or county housing authority to which the remaining moneys are
5 transferred shall utilize the moneys for the purposes of, and subject
6 to the same restrictions that are applicable to, the redevelopment
7 agency under this part.

8 (e) If a redevelopment plan provides a limit on the total amount
9 of tax increment funds that may be received by a redevelopment
10 agency for any project area, and if that limit is reached prior to the
11 agency complying with its obligations pursuant to subdivision (a),
12 that limit is suspended until the agency has complied with
13 subdivision (a) and the agency shall receive and use tax increment
14 funds until the agency has fully complied with its obligations.

15 (f) If an agency fails to comply with its obligations pursuant to
16 this section, any person may seek judicial relief. The court shall
17 require the agency to take all steps necessary to comply with those
18 obligations, including, as necessary, the adoption of ordinances, to
19 incur debt, to obtain tax increments, to expend tax increments, and
20 to enter into contracts as necessary to meet its housing obligations
21 under this part.

22 SEC. 4. Section 33333.10 of the Health and Safety Code is
23 amended to read:

24 33333.10. (a) (1) Notwithstanding the time limits in
25 subdivisions (a) and (b) of Section 33333.6, an agency that
26 adopted a redevelopment plan on or before December 31, 1993,
27 may, pursuant to this section, amend that plan to extend the time
28 limit on effectiveness of the plan for up to 10 additional years
29 beyond the limit allowed by subdivision (a) of Section 33333.6.

30 (2) In addition, the agency may, pursuant to this section, amend
31 that plan to extend the time limit on the payment of indebtedness
32 and receipt of property taxes to be not more than 10 years from the
33 termination of the effectiveness of the redevelopment plan as that
34 time limit has been amended pursuant to paragraph (1).

35 (b) A redevelopment plan may be amended pursuant to
36 subdivision (a) only after the agency finds, based on substantial
37 evidence, that both of the following conditions exist:

38 (1) Significant blight remains within the project area.

39 (2) This blight cannot be eliminated without extending the
40 effectiveness of the plan and the receipt of property taxes.

(c) As used in this section:

(1) “Blight” has the same meaning as that term is given in Section 33030.

(2) “Significant” means important and of a magnitude to warrant agency assistance.

(3) “Necessary and essential parcels” means parcels that are not blighted but are so necessary and essential to the elimination of the blight that these parcels should be included within the portion of the project area in which tax increment funds may be spent. “Necessary and essential parcels” are (A) parcels that are adjacent to one or more blighted parcels that are to be assembled in order to create a parcel of adequate size given present standards and market conditions, and (B) parcels that are adjacent or near parcels that are blighted on which it is necessary to construct a public improvement to eliminate the blight.

(d) For purposes of this section, significant blight can exist in a project area even though blight is not prevalent in a project area. The report submitted to the legislative body pursuant to Section 33352 shall identify on a map the portion of the project area in which significant blight remains.

(e) After the limit on the payment of indebtedness and receipt of property taxes that would have taken effect but for the amendment pursuant to this section, except for funds deposited in the Low and Moderate Income Housing Fund pursuant to Section 33334.2 or 33334.6, the agency shall spend tax increment funds only within the portion of the project area that has been identified in the report adopted pursuant to Section 33352 as the area containing blighted parcels and necessary and essential parcels. Except as otherwise limited by subdivisions (f) and (g), agencies may continue to spend funds deposited in the Low and Moderate Income Housing Fund in accordance with this division.

(f) (1) Except as otherwise provided in this subdivision, after the limit on the payment of indebtedness and receipt of property taxes that would have taken effect, but for the amendment pursuant to this section, agencies shall only spend moneys from the Low and Moderate Income Housing Fund for the purpose of increasing, improving, and preserving the community’s supply of housing at affordable housing cost to persons and families of low, very low, or extremely low income, as defined in Sections 50079.5, 50093, 50105, and 50106. During this period, an agency that has adopted

1 an amendment pursuant to subdivision (a) may use moneys from
2 the Low and Moderate Income Housing Fund for the purpose of
3 increasing, improving, and preserving housing at affordable
4 housing cost to persons and families of moderate income as
5 defined in Section 50093. However, this amount shall not exceed,
6 in a five-year period, the amount of moneys from the Low and
7 Moderate Income Housing Fund that are used to increase,
8 improve, and preserve housing at affordable housing cost to
9 persons and families of extremely low income, as defined in
10 Section 50106. In no case shall the amount expended for housing
11 for persons and families of moderate income exceed 15 percent of
12 the annual amount deposited in the Low and Moderate Income
13 Housing Fund during a five-year period and the number of housing
14 units affordable to moderate-income persons shall not exceed the
15 number of housing units affordable to extremely low income
16 persons.

17 (2) Commencing with the first fiscal year that commences after
18 the date of the adoption of an amendment pursuant to subdivision
19 (a) and until the limit on the payment of indebtedness and receipt
20 of property taxes that would have taken effect but for the
21 amendment pursuant to this section, an agency that has adopted an
22 amendment pursuant to subdivision (a) may use moneys from the
23 Low and Moderate Income Housing Fund for the purpose of
24 increasing, improving, and preserving housing at affordable
25 housing cost to persons and families of moderate income as
26 defined in Section 50093. However, this amount shall not exceed,
27 in a five-year period, 15 percent of the amount of moneys
28 deposited in the Low and Moderate Income Housing Fund during
29 that five-year period and shall only be used to assist housing
30 projects in which no less than 49 percent of the units are affordable
31 to and occupied by persons and families of low, very low, or
32 extremely low income. An agency may spend an additional
33 amount of moneys in the same or other housing projects to assist
34 housing units affordable to and occupied by moderate-income
35 persons. However, this amount shall not exceed the lesser of: the
36 amount of moneys spent to increase, improve, and preserve
37 housing at affordable housing cost to persons and families of
38 extremely low income as defined in Section 50106, or 5 percent
39 of the moneys deposited in the Low and Moderate Income
40 Housing Fund during that five-year period.

(g) (1) Except as provided in paragraph (2) or (3), commencing with the first fiscal year that commences after the date of adoption of an amendment pursuant to subdivision (a), not less than 30 percent of all taxes that are allocated to the agency pursuant to Section 33670 from the redevelopment project area so amended shall be deposited into that project's Low and Moderate Income Housing Fund for the purposes specified in subdivision (f).

(2) In any fiscal year, the agency may deposit less than the amount required by paragraph (1), but not less than the amount required by Section 33334.2 or 33334.6, into the Low and Moderate Income Housing Fund if the agency finds that the difference between the amount deposited and the amount required by paragraph (1) is necessary to make principal and interest payments during that fiscal year on bonds sold by the agency to finance or refinance the redevelopment project prior to six months before the date of adoption of the amendment pursuant to subdivision (a). Bonds sold by the agency prior to six months before the date of the adoption of the amendment pursuant to subdivision (a) may only be refinanced, refunded, or restructured after the date of the amendment pursuant to subdivision (a). However, for purposes of this section, bonds refinanced, refunded, or restructured after the date of the amendment pursuant to subdivision (a) may only be treated as if sold on the date the original bonds were sold if (A) the net proceeds were used to refinance the original bonds, (B) there is no increase in the amount of principal at the time of refinancing, restructuring, or refunding, and (C) the time during which the refinanced indebtedness is to be repaid does not exceed the date on which the existing indebtedness would have been repaid.

(3) No later than 120 days prior to depositing less than the amount required by paragraph (1) into the Low and Moderate Income Housing Fund, the agency shall adopt, by resolution after a noticed public hearing, a finding that the difference between the amount allocated and the amount required by paragraph (1) is necessary to make payments on bonds sold by the agency to finance or refinance the redevelopment project and identified in the preliminary report adopted pursuant to paragraph (9) of subdivision (e) of Section 33333.11, and specifying the amount of principal remaining on the bonds, the amount of annual payments,

1 and the date on which the indebtedness will be repaid. Notice of
2 the time and place of the public hearing shall be published in a
3 newspaper of general circulation once a week for at least two
4 successive weeks prior to the public hearing. The agency shall
5 make available to the public the proposed resolution no later than
6 the time of the publication of the first notice of the public hearing.
7 A copy of the resolution shall be transmitted to the Department of
8 Housing and Community Development within 10 days after
9 adoption.

10 (4) Notwithstanding paragraph (1), an agency that sells bonds
11 on or after the date of adoption of an amendment pursuant to
12 subdivision (a), the repayment of which is to be made from taxes
13 allocated to the agency pursuant to Section 33670 from the project
14 so amended, may elect to subordinate up to $16\frac{2}{3}$ percent of its
15 annual 30 percent Low and Moderate Income Housing Fund
16 deposit obligation to the payment of debt service on the bonds. If
17 the agency makes that election and in any year the agency has
18 insufficient tax-increment revenue available to pay debt service on
19 the bonds to which the funds from the Low and Moderate Income
20 Housing Fund are subordinated, the agency may deposit less than
21 the full 100 percent of its annual 30 percent Low and Moderate
22 Income Housing Fund obligation but only to the extent necessary
23 to pay that debt service and in no event shall less than $83\frac{1}{3}$ percent
24 of that obligation be deposited into the Low and Moderate Income
25 Housing Fund for that year. The difference between the amount
26 that is actually deposited in the Low and Moderate Income
27 Housing Fund and the full 100 percent of the agency's 30 percent
28 Low and Moderate Income Housing Fund deposit obligation shall
29 constitute a deficit in the Low and Moderate Income Housing Fund
30 subject to repayment pursuant to paragraph (5).

31 (5) If, pursuant to paragraph (2) or (4), the agency deposits less
32 than 30 percent of the taxes allocated to the agency pursuant to
33 Section 33670 in any fiscal year in the Low and Moderate Income
34 Housing Fund, the amount equal to the difference between 30
35 percent of the taxes allocated to the agency pursuant to Section
36 33670 for each affected redevelopment project area and the
37 amount actually deposited in the Low and Moderate Income
38 Housing Fund for that fiscal year shall be established as a deficit
39 in the Low and Moderate Income Housing Fund. Any new tax
40 increment funds not encumbered pursuant to paragraph (2) or (4)

shall be utilized to reduce or eliminate the deficit prior to entering into any new contracts, commitments, or indebtedness. The obligations imposed by this section are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670 and, notwithstanding any other provision of law, shall constitute an indebtedness of the agency with respect to the redevelopment project, and the agency shall continue to receive allocations of taxes pursuant to Section 33670 until the deficit is paid in full.

(h) An agency may not amend its redevelopment plan pursuant to this section unless the agency first adopts a resolution that finds, based on substantial evidence, all of the following:

(1) The community has adopted a housing element that the department has determined pursuant to Section 65585 of the Government Code to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, *or if applicable, an eligible city or county within the jurisdiction of the San Diego Association of Governments has adopted a self-certification of compliance with its adopted housing element pursuant to Section 65585.1 of the Government Code.*

(2) During the three fiscal years prior to the year in which the amendment is adopted, the agency has not been included in the report sent by the Controller to the Attorney General pursuant to subdivision (b) of Section 33080.8 as an agency that has a “major violation” pursuant to Section 33080.8.

(3) After a written request by the agency and provision of the information requested by the department, the department has issued a letter to the agency, confirming that the agency has not accumulated an excess surplus in its Low and Moderate Income Housing Fund. As used in this section, “excess surplus” has the same meaning as that term is defined in Section 33334.12. The department shall develop a methodology to collect information required by this section. Information requested by the department shall include a certification by the agency’s independent auditor on the status of excess surplus and submittal of data for the department to verify the status of excess surplus. The independent auditor shall make the required certification based on the Controller’s office guidelines which shall include the

1 methodology prescribed by the department pursuant to
2 subparagraph (D) of paragraph (3) of subdivision (g) of Section
3 33334.12. If the department does not respond to the written request
4 of the agency for this determination within 90 days after receipt of
5 the written request, compliance with this requirement shall be
6 deemed confirmed.

7 (i) Each redevelopment plan that has been adopted prior to
8 January 1, 1976, that is amended pursuant to subdivision (a) shall
9 also be amended at the same time to make subdivision (b) of
10 Section 33413 applicable to the redevelopment plan in accordance
11 with paragraph (1) of subdivision (d) of Section 33413.

12 (j) The amendment to the redevelopment plan authorized
13 pursuant to this section shall be made by ordinance pursuant to
14 Article 12 (commencing with Section 33450). The ordinance shall
15 be subject to referendum as prescribed by law for ordinances of the
16 legislative body.

17 (k) This section shall not apply to a project area that retains its
18 eligibility to incur indebtedness and receive tax increment
19 revenues pursuant to Section 33333.7.

20 (l) The limitations established in the ordinance adopted
21 pursuant to this section shall not be applied to limit allocation of
22 taxes to an agency to the extent required to comply with Section
23 33333.8. In the event of a conflict between these limitations and
24 the obligations under Section 33333.8, the limitation established
25 in the ordinance shall be suspended pursuant to Section 33333.8.

26 SEC. 5. Section 33333.11 of the Health and Safety Code is
27 amended to read:

28 33333.11. (a) In order to adopt an amendment pursuant to
29 Section 33333.10, the redevelopment agency shall also comply
30 with the procedures in this section.

31 (b) Before adopting an amendment of the plan, the agency shall
32 hold a public hearing on the proposed amendment. The notice of
33 the public hearing shall comply with Section 33452.

34 (c) Prior to the publication of the notice of the public hearing
35 on the proposed amendment, the agency shall consult with each
36 affected taxing agency with respect to the proposed amendment.
37 At a minimum, the agency shall give each affected taxing agency
38 the opportunity to meet with representatives of the agency for the
39 purpose of discussing the effect of the proposed amendment upon
40 the affected taxing agency and shall notify each affected taxing

1 agency that any written comments from the affected taxing agency
2 will be included in the report to the legislative body.

3 (d) Prior to the publication of the notice of the public hearing
4 on the proposed amendment, the agency shall consult with and
5 obtain the advice of members of a project area committee, if a
6 project area committee exists, and residents and community
7 organizations and provide to those persons and organizations,
8 including the project area committee, if any, the amendment prior
9 to the agency's submitting the amendment to the legislative body.

10 In addition, the preliminary report prepared pursuant to
11 subdivision (e) shall be made available at no cost to the project area
12 committee, if one exists, and residents and community
13 organizations not later than 120 days prior to holding a public
14 hearing on the proposed amendment.

15 (e) No later than 120 days prior to holding a public hearing on
16 the proposed amendment, the agency shall send to each affected
17 taxing entity, as defined in Section 33353.2, the Department of
18 Finance, and the Department of Housing and Community
19 Development, a preliminary report that contains all of the
20 following:

21 (1) A map of the project area that identifies the portion, if any,
22 of the project area that is no longer blighted and the portion of the
23 project area that is blighted and the portion of the project area that
24 contains necessary and essential parcels for the elimination of the
25 remaining blight.

26 (2) A description of the remaining blight.

27 (3) A description of the projects or programs proposed to
28 eliminate the remaining blight.

29 (4) A description of how the project or programs will improve
30 the conditions of blight.

31 (5) The reasons why the projects or programs cannot be
32 completed without extending the time limits on the effectiveness
33 of the plan and receipt of tax increment revenues.

34 (6) The proposed method of financing these programs or
35 projects. This description shall include the amount of tax
36 increment revenues that is projected to be generated during the
37 period of the extension, including amounts projected to be
38 deposited into the Low and Moderate Income Housing Fund and
39 amounts to be paid to affected taxing entities. This description
40 shall also include sources and amounts of moneys other than tax

1 increment revenues that are available to finance these projects or
2 programs. This description shall also include the reasons that the
3 remaining blight cannot reasonably be expected to be reversed or
4 alleviated by private enterprise or governmental action, or both,
5 without the use of the tax increment revenues available to the
6 agency because of the proposed amendment.

7 (7) An amendment to the agency's implementation plan that
8 includes, but is not limited to, the agency's housing responsibilities
9 pursuant to Section 33490. However, the agency shall not be
10 required to hold a separate public hearing on the implementation
11 plan pursuant to subdivision (d) of Section 33490 in addition to the
12 public hearing on the amendment to the redevelopment plan.

13 (8) A new neighborhood impact report if required by
14 subdivision (m) of Section 33352.

15 (9) A description of each bond sold by the agency to finance or
16 refinance the redevelopment project prior to six months before the
17 date of adoption of the proposed amendment, and listing for each
18 bond the amount of remaining principal, the annual payments, and
19 the date that the bond will be paid in full.

20 (f) No later than 120 days prior to holding a public hearing on
21 the proposed amendment, the agency shall send the proposed
22 amendment to the planning commission. If the planning
23 commission does not report upon the amendment within 30 days
24 after its submission by the agency, the planning commission shall
25 be deemed to have waived its report and recommendations
26 concerning the amendment.

27 (g) No later than 45 days prior to the public hearing on the
28 proposed amendment by the agency or the joint public hearing of
29 the agency and the legislative body, the agency shall notify each
30 affected taxing entity, the Department of Finance, the Department
31 of Housing and Community Development, and each individual
32 and organization that submitted comments on the preliminary
33 report by certified mail of the public hearing, the date of the public
34 hearing, and the proposed amendment. This notice shall be
35 accompanied by the report required to be prepared pursuant to
36 subdivision (h).

37 (h) No later than 45 days prior to the public hearing on the
38 proposed amendment by the agency or the joint public hearing by
39 the agency and the legislative body, the agency shall adopt a report
40 to the legislative body containing all of the following:



1 (1) All of the information required to be contained in the
2 preliminary report prepared pursuant to subdivision (e).

3 (2) The report and recommendation of the planning
4 commission.

5 (3) The report required by Section 21151 of the Public
6 Resources Code.

7 (4) A summary of the consultations with the affected taxing
8 entities. If any of the affected taxing entities, a project area
9 committee, if any, residents, or community organizations have
10 expressed written objections or concerns with the proposed
11 amendment as part of these consultations, the agency shall include
12 a response to these concerns.

13 (5) A summary of the consultation with residents and
14 community organizations, including the project area committee,
15 if any.

16 (i) After receiving the recommendation of the agency on the
17 proposed amendment, and not sooner than 30 days after the
18 submission of changes to the planning commission, the legislative
19 body shall hold a public hearing on the proposed amendment. The
20 notice of the public hearing shall comply with Section 33452.

21 (j) As an alternative to the separate public hearing required by
22 subdivision (i), the agency and the legislative body, with the
23 consent of both, may hold a joint public hearing on the proposed
24 amendment. Notice of this public hearing shall comply with
25 Section 33452. When a joint public hearing is held and the
26 legislative body is also the agency, the legislative body may adopt
27 the amended plan with no actions required of the agency. If, after
28 the public hearing, the legislative body determines that the
29 amendment to the plan is necessary or desirable, the legislative
30 body shall adopt an ordinance amending the ordinance adopting
31 the plan thus amended. The ordinance adopting the amendment
32 shall contain findings that both (1) significant blight remains
33 within the project area, and (2) the blight cannot be eliminated
34 without the extension of the effectiveness of the plan and receipt
35 of tax increment revenues.

36 (k) If an affected taxing entity, the Department of Finance, or
37 the Department of Housing and Community Development
38 believes that significant remaining blight does not exist within the
39 portion of the project area designated as blighted in the report to
40 the legislative body regarding a proposed amendment to be

1 adopted pursuant to Section 33333.10, the affected taxing entity,
2 the Department of Finance, or the Department of Housing and
3 Community Development may request the Attorney General to
4 participate in the amendment process. The affected taxing entity,
5 the Department of Finance, or the Department of Housing and
6 Community Development shall request this participation within
7 21 days after receipt of the notice of the public hearing sent
8 pursuant to subdivision (g). The Attorney General shall determine
9 whether or not to participate in the amendment process. The
10 Attorney General may consult with and request the assistance of
11 departments of the state and any other persons or groups that are
12 interested or that have expertise in redevelopment. The Attorney
13 General may participate in the amendment process by requesting
14 additional information from the agency, conducting his or her own
15 review of the project area, meeting with the agency and any
16 affected taxing entity, submitting evidence for consideration at the
17 public hearing, or presenting oral evidence at the public hearing.
18 No later than five days prior to the public hearing on the proposed
19 amendment, the Attorney General shall notify each affected taxing
20 agency, each department that has requested the Attorney General
21 to review the proposed amendment, and the redevelopment agency
22 with regard to whether the Attorney General will participate in the
23 amendment process and, if so, how he or she will participate, on
24 their behalf.

25 (l) The Attorney General may bring a civil action pursuant to
26 Section 33501 to determine the validity of an amendment adopted
27 pursuant to Section 33333.10. The Department of Finance and the
28 Department of Housing and Community Development shall be
29 considered interested persons for the purposes of protecting the
30 interests of the state pursuant to Section 863 of the Code of Civil
31 Procedure in any action brought with regard to the validity of an
32 ordinance adopting a proposed amendment pursuant to Section
33 33333.10. Either department may request the Attorney General to
34 bring an action pursuant to Section 33501 to determine the validity
35 of an amendment adopted pursuant to Section 33333.10. Actions
36 brought pursuant to this subdivision are in addition to any other
37 actions that may be brought by the Attorney General or other
38 persons.

39 SEC. 6. Section 33333.13 of the Health and Safety Code is
40 repealed.

SEC. 6.5. Section 33334.2 of the Health and Safety Code, as amended by Section 2.2 of Chapter 738 of the Statutes of 2001, is amended to read:

33334.2. (a) Not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Sections 33334.22 and 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined in Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined in Section 50106, that is occupied by these persons and families, unless one of the following findings is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

1 (2) (A) That some stated percentage less than 20 percent of the
2 taxes that are allocated to the agency pursuant to Section 33670 is
3 sufficient to meet the housing needs of the community, including
4 its share of the regional housing needs of persons and families of
5 low- or moderate-income and very low income households, and
6 that this finding is consistent with the housing element of the
7 community's general plan required by Article 10.6 (commencing
8 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
9 Government Code.

10 (B) This finding shall only be made if the housing element of
11 the community's general plan demonstrates that a percentage of
12 less than 20 percent will be sufficient to meet the community's
13 need to improve, increase, or preserve the supply of low- and
14 moderate-income housing available at affordable housing cost to
15 persons and families of low or moderate income and to very low
16 income households. This finding shall only be made if it is
17 consistent with the planning agency's annual report to the
18 legislative body on implementation of the housing element
19 required by subdivision (b) of Section 65400 of the Government
20 Code. No agency of a charter city shall make this finding unless
21 the planning agency submits the report pursuant to subdivision (b)
22 of Section 65400 of the Government Code. This finding shall not
23 take effect until the agency has complied with subdivision (b) of
24 this section.

25 (C) For purposes of making the findings specified in this
26 paragraph and paragraph (1), the housing element of the general
27 plan of a city, county, or city and county shall be current, and shall
28 have been determined by the department pursuant to Section
29 65585 to be in substantial compliance with Article 10.6
30 (commencing with Section 65580) of Chapter 3 of Division 1 of
31 Title 7 of the Government Code.

32 (3) (A) That the community is making a substantial effort to
33 meet its existing and projected housing needs, including its share
34 of the regional housing needs, with respect to persons and families
35 of low and moderate income, particularly very low income
36 households, as identified in the housing element of the
37 community's general plan required by Article 10.6 (commencing
38 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
39 Government Code, and that this effort, consisting of direct
40 financial contributions of local funds used to increase and improve



1 the supply of housing affordable to, and occupied by, persons and
 2 families of low or moderate income and very low income
 3 households, is equivalent in impact to the funds otherwise required
 4 to be set aside pursuant to this section. In addition to any other local
 5 funds, these direct financial contributions may include federal or
 6 state grants paid directly to a community and which the
 7 community has the discretion of using for the purposes for which
 8 moneys in the Low and Moderate Income Housing Fund may be
 9 used. The legislative body shall consider the need that can be
 10 reasonably foreseen because of displacement of persons and
 11 families of low or moderate income or very low income
 12 households from within, or adjacent to, the project area, because
 13 of increased employment opportunities, or because of any other
 14 direct or indirect result of implementation of the redevelopment
 15 plan. No finding under this subdivision may be made until the
 16 community has provided or ensured the availability of
 17 replacement dwelling units as defined in Section 33411.2 and until
 18 it has complied with Article 9 (commencing with Section 33410).

19 (B) In making the determination that other financial
 20 contributions are equivalent in impact pursuant to this subdivision,
 21 the agency shall include only those financial contributions that are
 22 directly related to programs or activities authorized under
 23 subdivision (e) of this section.

24 (C) The authority for making the finding specified in this
 25 paragraph shall expire on June 30, 1993, except that the expiration
 26 shall not be deemed to impair contractual obligations to
 27 bondholders or private entities incurred prior to May 1, 1991, and
 28 made in reliance on this paragraph. Agencies that make this
 29 finding after June 30, 1993, shall show evidence that the agency
 30 entered into the specific contractual obligation with the specific
 31 intention of making a finding under this paragraph in order to
 32 provide sufficient revenues to pay off the indebtedness.

33 (b) Within 10 days following the making of a finding under
 34 either paragraph (1) or (2) of subdivision (a), the agency shall send
 35 the department a copy of the finding, including the factual
 36 information supporting the finding and other factual information
 37 in the housing element that demonstrates that either (1) the
 38 community does not need to increase, improve, or preserve the
 39 supply of housing for low- and moderate-income households,
 40 including very low income households, or (2) a percentage less

1 than 20 percent will be sufficient to meet the community's need to
2 improve, increase, and preserve the supply of housing for low- and
3 moderate-income households, including very low income
4 households. Within 10 days following the making of a finding
5 under paragraph (3) of subdivision (a), the agency shall send the
6 department a copy of the finding, including the factual information
7 supporting the finding that the community is making a substantial
8 effort to meet its existing and projected housing needs. Agencies
9 that make this finding after June 30, 1993, shall also submit
10 evidence to the department of its contractual obligations with
11 bondholders or private entities incurred prior to May 1, 1991, and
12 made in reliance on this finding.

13 (c) In any litigation to challenge or attack a finding made under
14 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
15 upon the agency to establish that the finding is supported by
16 substantial evidence in light of the entire record before the agency.
17 If an agency is determined by a court to have knowingly
18 misrepresented any material facts regarding the community's
19 share of its regional housing need for low- and moderate-income
20 housing, including very low income households, or the
21 community's production record in meeting its share of the regional
22 housing need pursuant to the report required by subdivision (b) of
23 Section 65400 of the Government Code, the agency shall be liable
24 for all court costs and plaintiff's attorney's fees, and shall be
25 required to allocate not less than 25 percent of the agency's tax
26 increment revenues to its Low and Moderate Income Housing
27 Fund in each year thereafter.

28 (d) Nothing in this section shall be construed as relieving any
29 other public entity or entity with the power of eminent domain of
30 any legal obligations for replacement or relocation housing arising
31 out of its activities.

32 (e) In carrying out the purposes of this section, the agency may
33 exercise any or all of its powers for the construction, rehabilitation,
34 or preservation of affordable housing for extremely low, very low,
35 low-, and moderate-income persons or families, including the
36 following:

37 (1) Acquire real property or building sites subject to Section
38 33334.16.

39 (2) Improve real property or building sites with onsite or offsite
40 improvements, but only if both (A) the improvements are part of

the new construction or rehabilitation of affordable housing units for low- or moderate-income persons that are directly benefited by the improvements, and are a reasonable and fundamental component of the housing units, and (B) the agency requires that the units remain available at affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate income for the same time period and in the same manner as provided in subdivision (c) and paragraph (2) of subdivision (f) of Section 33334.3.

If the newly constructed or rehabilitated housing units are part of a larger project and the agency improves or pays for onsite or offsite improvements pursuant to the authority in this subdivision, the agency shall pay only a portion of the total cost of the onsite or offsite improvement. The maximum percentage of the total cost of the improvement paid for by the agency shall be determined by dividing the number of housing units that are affordable to low- or moderate-income persons by the total number of housing units, if the project is a housing project, or by dividing the cost of the affordable housing units by the total cost of the project, if the project is not a housing project.

(3) Donate real property to private or public persons or entities.

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, extremely low income households, as defined in Section 50106, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies.

(9) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(10) Maintain the community's supply of mobilehomes.

(11) Preserve the availability to lower income households of affordable housing units in housing developments that are assisted

1 or subsidized by public entities and that are threatened with
2 imminent conversion to market rates.

3 (f) The agency may use these funds to meet, in whole or in part,
4 the replacement housing provisions in Section 33413. However,
5 nothing in this section shall be construed as limiting in any way the
6 requirements of that section.

7 (g) (1) The agency may use these funds inside or outside the
8 project area. The agency may only use these funds outside the
9 project area upon a resolution of the agency and the legislative
10 body that the use will be of benefit to the project. The
11 determination by the agency and the legislative body shall be final
12 and conclusive as to the issue of benefit to the project area. The
13 Legislature finds and declares that the provision of replacement
14 housing pursuant to Section 33413 is always of benefit to a project.
15 Unless the legislative body finds, before the redevelopment plan
16 is adopted, that the provision of low- and moderate-income
17 housing outside the project area will be of benefit to the project,
18 the project area shall include property suitable for low- and
19 moderate-income housing.

20 (2) (A) The Contra Costa County Redevelopment Agency
21 may use these funds anywhere within the unincorporated territory,
22 or within the incorporated limits of the City of Walnut Creek on
23 sites contiguous to the Pleasant Hill BART Station Area
24 Redevelopment Project area. The agency may only use these funds
25 outside the project area upon a resolution of the agency and board
26 of supervisors determining that the use will be of benefit to the
27 project area. In addition, the agency may use these funds within the
28 incorporated limits of the City of Walnut Creek only if the agency
29 and the board of supervisors find all of the following:

30 (i) Both the County of Contra Costa and the City of Walnut
31 Creek have adopted and are implementing complete and current
32 housing elements of their general plans that the department has
33 determined to be in compliance with the requirements of Article
34 10.6 (commencing with Section 65580) of Chapter 3 of Division
35 1 of Title 7 of the Government Code.

36 (ii) The development to be funded shall not result in any
37 residential displacement from the site where the development is to
38 be built.



1 (iii) The development to be funded shall not be constructed in
2 an area that currently has more than 50 percent of its population
3 comprised of racial minorities or low-income families.

4 (iv) The development to be funded shall allow construction of
5 affordable housing closer to a rapid transit station than could be
6 constructed in the unincorporated territory outside the Pleasant
7 Hill BART Station Area Redevelopment Project.

8 (B) If the agency uses these funds within the incorporated
9 limits of the City of Walnut Creek, all of the following
10 requirements shall apply:

11 (i) The funds shall be used only for the acquisition of land for,
12 and the design and construction of, the development of housing
13 containing units affordable to, and occupied by, low- and
14 moderate-income persons.

15 (ii) If less than all the units in the development are affordable
16 to, and occupied by, low- or moderate-income persons, any agency
17 assistance may not exceed the amount needed to make the housing
18 affordable to, and occupied by, low- or moderate-income persons.

19 (iii) The units in the development that are affordable to low- or
20 moderate-income persons shall remain affordable for a period of
21 at least 55 years.

22 (iv) The agency and the City of Walnut Creek shall determine,
23 if applicable, whether Article XXXIV of the California
24 Constitution permits the development.

25 (h) The Legislature finds and declares that expenditures or
26 obligations incurred by the agency pursuant to this section shall
27 constitute an indebtedness of the project.

28 (i) The requirements of this section shall only apply to taxes
29 allocated to a redevelopment agency for which a final
30 redevelopment plan is adopted on or after January 1, 1977, or for
31 any area that is added to a project by an amendment to a
32 redevelopment plan, which amendment is adopted on or after the
33 effective date of this section. An agency may, by resolution, elect
34 to make all or part of the requirements of this section applicable
35 to any redevelopment project for which a redevelopment plan was
36 adopted prior to January 1, 1977, subject to any indebtedness
37 incurred prior to the election.

38 (j) This section shall remain in effect only until January 1,
39 2005, and as of that date is repealed, unless a later enacted statute,
40 that is enacted before January 1, 2005, deletes or extends that date.

SEC. 7. Section 33334.2 of the Health and Safety Code, as amended by Section 2.4 of Chapter 738 of the Statutes of 2001, is amended to read:

33334.2. (a) Not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined by Section 50106, that is occupied by these persons and families, unless one of the following findings is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

1 (2) (A) That some stated percentage less than 20 percent of the
2 taxes that are allocated to the agency pursuant to Section 33670 is
3 sufficient to meet the housing needs of the community, including
4 its share of the regional housing needs of persons and families of
5 low- or moderate-income and very low income households, and
6 that this finding is consistent with the housing element of the
7 community's general plan required by Article 10.6 (commencing
8 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
9 Government Code.

10 (B) This finding shall only be made if the housing element of
11 the community's general plan demonstrates that a percentage of
12 less than 20 percent will be sufficient to meet the community's
13 need to improve, increase, or preserve the supply of low- and
14 moderate-income housing available at affordable housing cost to
15 persons and families of low or moderate income and to very low
16 income households. This finding shall only be made if it is
17 consistent with the planning agency's annual report to the
18 legislative body on implementation of the housing element
19 required by subdivision (b) of Section 65400 of the Government
20 Code. No agency of a charter city shall make this finding unless
21 the planning agency submits the report pursuant to subdivision (b)
22 of Section 65400 of the Government Code. This finding shall not
23 take effect until the agency has complied with subdivision (b) of
24 this section.

25 (C) For purposes of making the findings specified in this
26 paragraph and paragraph (1), the housing element of the general
27 plan of a city, county, or city and county shall be current, and shall
28 have been determined by the department pursuant to Section
29 65585 to be in substantial compliance with Article 10.6
30 (commencing with Section 65580) of Chapter 3 of Division 1 of
31 Title 7 of the Government Code.

32 (3) (A) That the community is making a substantial effort to
33 meet its existing and projected housing needs, including its share
34 of the regional housing needs, with respect to persons and families
35 of low and moderate income, particularly very low income
36 households, as identified in the housing element of the
37 community's general plan required by Article 10.6 (commencing
38 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
39 Government Code, and that this effort, consisting of direct
40 financial contributions of local funds used to increase and improve



1 the supply of housing affordable to, and occupied by, persons and
2 families of low or moderate income and very low income
3 households is equivalent in impact to the funds otherwise required
4 to be set aside pursuant to this section. In addition to any other local
5 funds, these direct financial contributions may include federal or
6 state grants paid directly to a community and which the
7 community has the discretion of using for the purposes for which
8 moneys in the Low and Moderate Income Housing Fund may be
9 used. The legislative body shall consider the need that can be
10 reasonably foreseen because of displacement of persons and
11 families of low or moderate income or very low income
12 households from within, or adjacent to, the project area, because
13 of increased employment opportunities, or because of any other
14 direct or indirect result of implementation of the redevelopment
15 plan. No finding under this subdivision may be made until the
16 community has provided or ensured the availability of
17 replacement dwelling units as defined in Section 33411.2 and until
18 it has complied with Article 9 (commencing with Section 33410).

19 (B) In making the determination that other financial
20 contributions are equivalent in impact pursuant to this subdivision,
21 the agency shall include only those financial contributions that are
22 directly related to programs or activities authorized under
23 subdivision (e).

24 (C) The authority for making the finding specified in this
25 paragraph shall expire on June 30, 1993, except that the expiration
26 shall not be deemed to impair contractual obligations to
27 bondholders or private entities incurred prior to May 1, 1991, and
28 made in reliance on the provisions of this paragraph. Agencies that
29 make this finding after June 30, 1993, shall show evidence that the
30 agency entered into the specific contractual obligation with the
31 specific intention of making a finding under this paragraph in
32 order to provide sufficient revenues to pay off the indebtedness.

33 (b) Within 10 days following the making of a finding under
34 either paragraph (1) or (2) of subdivision (a), the agency shall send
35 the Department of Housing and Community Development a copy
36 of the finding, including the factual information supporting the
37 finding and other factual information in the housing element that
38 demonstrates that either (1) the community does not need to
39 increase, improve, or preserve the supply of housing for low- and
40 moderate-income households, including very low income

households, or (2) a percentage less than 20 percent will be sufficient to meet the community's need to improve, increase, and preserve the supply of housing for low- and moderate-income households, including very low income households. Within 10 days following the making of a finding under paragraph (3) of subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding that the community is making a substantial effort to meet its existing and projected housing needs. Agencies that make this finding after June 30, 1993, shall also submit evidence to the department of its contractual obligations with bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this finding.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency. If an agency is determined by a court to have knowingly misrepresented any material facts regarding the community's share of its regional housing need for low- and moderate-income housing, including very low income households, or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable for all court costs and plaintiff's attorney's fees, and shall be required to allocate not less than 25 percent of the agency's tax increment revenues to its Low and Moderate Income Housing Fund in each year thereafter.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low-, and moderate-income persons or families, including the following:

(1) Acquire real property or building sites subject to Section 33334.16.

1 (2) Improve real property or building sites with onsite or offsite
2 improvements, but only if both (A) the improvements are part of
3 the new construction or rehabilitation of affordable housing units
4 for low- or moderate-income persons that are directly benefited by
5 the improvements, and are a reasonable and fundamental
6 component of the housing units, and (B) the agency requires that
7 the units remain available at affordable housing cost to, and
8 occupied by, persons and families of extremely low, very low, low,
9 or moderate income for the same time period and in the same
10 manner as provided in subdivision (c) and paragraph (2) of
11 subdivision (f) of Section 33334.3.

12 If the newly constructed or rehabilitated housing units are part
13 of a larger project and the agency improves or pays for onsite or
14 offsite improvements pursuant to the authority in this subdivision,
15 the agency shall pay only a portion of the total cost of the onsite
16 or offsite improvement. The maximum percentage of the total cost
17 of the improvement paid for by the agency shall be determined by
18 dividing the number of housing units that are affordable to low- or
19 moderate-income persons by the total number of housing units, if
20 the project is a housing project, or by dividing the cost of the
21 affordable housing units by the total cost of the project, if the
22 project is not a housing project.

23 (3) Donate real property to private or public persons or entities.

24 (4) Finance insurance premiums pursuant to Section 33136.

25 (5) Construct buildings or structures.

26 (6) Acquire buildings or structures.

27 (7) Rehabilitate buildings or structures.

28 (8) Provide subsidies to, or for the benefit of, extremely low
29 income households, as defined by Section 50106, very low income
30 households, as defined by Section 50105, lower income
31 households, as defined by Section 50079.5, or persons and
32 families of low or moderate income, as defined by Section 50093,
33 to the extent those households cannot obtain housing at affordable
34 costs on the open market. Housing units available on the open
35 market are those units developed without direct government
36 subsidies.

37 (9) Develop plans, pay principal and interest on bonds, loans,
38 advances, or other indebtedness, or pay financing or carrying
39 charges.

40 (10) Maintain the community's supply of mobilehomes.



1 (11) Preserve the availability to lower income households of
2 affordable housing units in housing developments that are assisted
3 or subsidized by public entities and that are threatened with
4 imminent conversion to market rates.

5 (f) The agency may use these funds to meet, in whole or in part,
6 the replacement housing provisions in Section 33413. However,
7 nothing in this section shall be construed as limiting in any way the
8 requirements of that section.

9 (g) (1) The agency may use these funds inside or outside the
10 project area. The agency may only use these funds outside the
11 project area upon a resolution of the agency and the legislative
12 body that the use will be of benefit to the project. The
13 determination by the agency and the legislative body shall be final
14 and conclusive as to the issue of benefit to the project area. The
15 Legislature finds and declares that the provision of replacement
16 housing pursuant to Section 33413 is always of benefit to a project.
17 Unless the legislative body finds, before the redevelopment plan
18 is adopted, that the provision of low- and moderate-income
19 housing outside the project area will be of benefit to the project,
20 the project area shall include property suitable for low- and
21 moderate-income housing.

22 (2) (A) The Contra Costa County Redevelopment Agency
23 may use these funds anywhere within the unincorporated territory,
24 or within the incorporated limits of the City of Walnut Creek on
25 sites contiguous to the Pleasant Hill BART Station Area
26 Redevelopment Project area. The agency may only use these funds
27 outside the project area upon a resolution of the agency and board
28 of supervisors determining that the use will be of benefit to the
29 project area. In addition, the agency may use these funds within the
30 incorporated limits of the City of Walnut Creek only if the agency
31 and the board of supervisors find all of the following:

32 (i) Both the County of Contra Costa and the City of Walnut
33 Creek have adopted and are implementing complete and current
34 housing elements of their general plans that the Department of
35 Housing and Community Development has determined to be in
36 compliance with the requirements of Article 10.6 (commencing
37 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
38 Government Code.

1 (ii) The development to be funded shall not result in any
2 residential displacement from the site where the development is to
3 be built.

4 (iii) The development to be funded shall not be constructed in
5 an area that currently has more than 50 percent of its population
6 comprised of racial minorities or low-income families.

7 (iv) The development to be funded shall allow construction of
8 affordable housing closer to a rapid transit station than could be
9 constructed in the unincorporated territory outside the Pleasant
10 Hill BART Station Area Redevelopment Project.

11 (B) If the agency uses these funds within the incorporated
12 limits of the City of Walnut Creek, all of the following
13 requirements shall apply:

14 (i) The funds shall be used only for the acquisition of land for,
15 and the design and construction of, the development of housing
16 containing units affordable to, and occupied by, low- and
17 moderate-income persons.

18 (ii) If less than all the units in the development are affordable
19 to, and occupied by, low- or moderate-income persons, any agency
20 assistance shall not exceed the amount needed to make the housing
21 affordable to, and occupied by, low- or moderate-income persons.

22 (iii) The units in the development that are affordable to, and
23 occupied by, low- or moderate-income persons shall remain
24 affordable for a period of at least 55 years.

25 (iv) The agency and the City of Walnut Creek shall determine,
26 if applicable, whether Article XXXIV of the California
27 Constitution permits the development.

28 (h) The Legislature finds and declares that expenditures or
29 obligations incurred by the agency pursuant to this section shall
30 constitute an indebtedness of the project.

31 (i) The requirements of this section shall only apply to taxes
32 allocated to a redevelopment agency for which a final
33 redevelopment plan is adopted on or after January 1, 1977, or for
34 any area that is added to a project by an amendment to a
35 redevelopment plan, which amendment is adopted on or after the
36 effective date of this section. An agency may, by resolution, elect
37 to make all or part of the requirements of this section applicable
38 to any redevelopment project for which a redevelopment plan was
39 adopted prior to January 1, 1977, subject to any indebtedness
40 incurred prior to the election.

1 (j) This section shall become operative on January 1, 2005.

2 SEC. 8. Section 33334.3 of the Health and Safety Code is
3 amended to read:

4 33334.3. (a) The funds that are required by Section 33334.2
5 or 33334.6 to be used for the purposes of increasing and improving
6 the community's supply of low- and moderate-income housing
7 shall be held in a separate Low and Moderate Income Housing
8 Fund until used.

9 (b) Any interest earned by the Low and Moderate Income
10 Housing Fund and any repayments or other income to the agency
11 for loans, advances, or grants, of any kind from the Low and
12 Moderate Income Housing Fund, shall accrue to and be deposited
13 in, the fund and may only be used in the manner prescribed for the
14 Low and Moderate Income Housing Fund.

15 (c) The moneys in the Low and Moderate Income Housing
16 Fund shall be used to increase, improve, and preserve the supply
17 of low- and moderate-income housing within the territorial
18 jurisdiction of the agency.

19 (d) It is the intent of the Legislature that the Low and Moderate
20 Income Housing Fund be used to the maximum extent possible to
21 defray the costs of production, improvement, and preservation of
22 low- and moderate-income housing and that the amount of money
23 spent for planning and general administrative activities associated
24 with the development, improvement, and preservation of that
25 housing not be disproportionate to the amount actually spent for
26 the costs of production, improvement, or preservation of that
27 housing. The agency shall determine annually that the planning
28 and administrative expenses are necessary for the production,
29 improvement, or preservation of low- and moderate-income
30 housing.

31 (e) (1) Planning and general administrative costs which may
32 be paid with moneys from the Low and Moderate Income Housing
33 Fund are those expenses incurred by the agency which are directly
34 related to the programs and activities authorized under subdivision
35 (e) of Section 33334.2 and are limited to the following:

36 (A) Costs incurred for salaries, wages, and related costs of the
37 agency's staff or for services provided through interagency
38 agreements, and agreements with contractors, including usual
39 indirect costs related thereto.

1 (B) Costs incurred by a nonprofit corporation which are not
2 directly attributable to a specific project.

3 (2) Legal, architectural, and engineering costs and other
4 salaries, wages, and costs directly related to the planning and
5 execution of a specific project which are authorized under
6 subdivision (e) of Section 33334.2 and which are incurred by a
7 nonprofit housing sponsor are not planning and administrative
8 costs for the purposes of this section, but are instead project costs.

9 (f) (1) The requirements of this subdivision apply to all new or
10 substantially rehabilitated housing units developed or otherwise
11 assisted, with moneys from the Low and Moderate Income
12 Housing Fund, pursuant to an agreement approved by an agency
13 on or after January 1, 1988. Except to the extent a longer period
14 of time may be required by other provisions of law, the agency
15 shall require that housing units subject to this subdivision shall
16 remain available at affordable housing cost to, and occupied by,
17 persons and families of low or moderate income and very low
18 income and extremely low income households for the longest
19 feasible time, but for not less than the following periods of time:

20 (A) Fifty-five years for rental units. However, the agency may
21 replace rental units with equally affordable and comparable rental
22 units in another location within the community if (A) the
23 replacement units are available for occupancy prior to the
24 displacement of any persons and families of low or moderate
25 income residing in the units to be replaced and (B) the comparable
26 replacement units are not developed with moneys from the Low
27 and Moderate Income Housing Fund.

28 (B) Forty-five years for owner-occupied units. However, the
29 agency may permit sales of owner-occupied units prior to the
30 expiration of the 45-year period for a price in excess of that
31 otherwise permitted under this subdivision pursuant to an adopted
32 program which protects the agency's investment of moneys from
33 the Low and Moderate Income Housing Fund, including, but not
34 limited to, an equity sharing program which establishes a schedule
35 of equity sharing that permits retention by the seller of a portion
36 of those excess proceeds based on the length of occupancy. The
37 remainder of the excess proceeds of the sale shall be allocated to
38 the agency and deposited in the Low and Moderate Income
39 Housing Fund. Only the units originally assisted by the agency

1 shall be counted towards the agency's obligations under Section
2 33413.

3 (C) If land on which those dwelling units are located is deleted
4 from the project area, the agency shall continue to require that
5 those units remain affordable as specified in this subdivision.

6 (2) The agency shall require the recording in the office of the
7 county recorder of covenants or restrictions implementing this
8 subdivision for each parcel or unit of real property subject to this
9 subdivision. Notwithstanding any other provision of law, the
10 covenants or restrictions shall run with the land and shall be
11 enforceable, against the original owner and successors in interest,
12 by the agency or the community.

13 (g) "Housing," as used in this section, includes residential
14 hotels, as defined in subdivision (k) of Section 37912. The
15 definitions of "lower income households," "very low income
16 households," and "extremely low income households" in
17 Sections 50079.5, 50105, and 50106 shall apply to this section.
18 "Longest feasible time," as used in this section, includes, but is
19 not limited to, unlimited duration.

20 (h) "Increasing, improving, and preserving the community's
21 supply of low- and moderate-income housing," as used in this
22 section and in Section 33334.2, includes the preservation of rental
23 housing units assisted by federal, state, or local government on the
24 condition that units remain affordable to, and occupied by, low-
25 and moderate-income households, including extremely low and
26 very low income households, for the longest feasible time, but not
27 less than 55 years, beyond the date the subsidies and use
28 restrictions could be terminated and the assisted housing units
29 converted to market rate rentals. In preserving these units the
30 agency shall require that the units remain affordable to, and
31 occupied by, persons and families of low- and moderate-income
32 and extremely low and very low income households for the longest
33 feasible time but not less than 55 years. However, the agency may
34 replace rental units with equally affordable and comparable rental
35 units in another location within the community if (1) the
36 replacement units in another location are available for occupancy
37 prior to the displacement of any persons and families of low or
38 moderate income residing in the units to be replaced and (2) the
39 comparable replacement units are not developed with moneys
40 from the Low and Moderate Income Housing Fund.

(i) Agencies that have more than one project area may satisfy the requirements of Sections 33334.2 and 33334.6 and of this section by allocating, in any fiscal year, less than 20 percent in one project area, if the difference between the amount allocated and the 20 percent required is instead allocated, in that same fiscal year, to the Low and Moderate Income Housing Fund from tax increment revenues from other project areas. Prior to allocating funds pursuant to this subdivision, the agency shall make the finding required by subdivision (g) of Section 33334.2.

(j) Funds from the Low and Moderate Income Housing Fund shall not be used to the extent that other reasonable means of private or commercial financing of the new or substantially rehabilitated units at the same level of affordability and quantity are reasonably available to the agency or to the owner of the units. Prior to the expenditure of funds from the Low and Moderate Income Housing Fund for new or substantially rehabilitated housing units, where those funds will exceed 50 percent of the cost of producing the units, the agency shall find, based on substantial evidence, that the use of the funds is necessary because the agency or owner of the units has made a good faith attempt but been unable to obtain commercial or private means of financing the units at the same level of affordability and quantity.

SEC. 9. Section 33334.4 of the Health and Safety Code is amended to read:

33334.4. (a) Except as specified in subdivision (d), each agency shall expend over each 10-year period of the implementation plan, as specified in clause (iii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 33490, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low income and housing for persons of very low income in at least the same proportion as the total number of housing units needed for each of those income groups bears to the total number of units needed for persons of moderate, low, and very low income within the community, as those needs have been determined for the community pursuant to Section 65584 of the Government Code. In determining compliance with this obligation, the agency may adjust the proportion by subtracting from the need identified for each income category, the number of units for persons of that income category that are newly constructed over the duration of the implementation plan with

1 other locally controlled government assistance and without
2 agency assistance and that are required to be affordable to, and
3 occupied by, persons of the income category for at least 55 years
4 for rental housing and 45 years for ownership housing, except that
5 in making an adjustment the agency may not subtract units
6 developed pursuant to a replacement housing obligation under
7 state or federal law.

8 (b) Each agency shall expend over the duration of each
9 redevelopment implementation plan, the moneys in the Low and
10 Moderate Income Housing Fund to assist housing that is available
11 to all persons regardless of age in at least the same proportion as
12 the population under age 65 years bears to the total population of
13 the community as reported in the most recent census of the United
14 States Census Bureau.

15 (c) An agency that has deposited in the Low and Moderate
16 Income Housing Fund over the first five years of the period of an
17 implementation plan an aggregate that is less than two million
18 dollars (\$2,000,000) shall have an extra five years to meet the
19 requirements of this section.

20 (d) For the purposes of this section, “locally controlled” means
21 government assistance where the community or other local
22 government entity has the discretion and the authority to
23 determine the recipient and the amount of the assistance, whether
24 or not the source of the funds or other assistance is from the state
25 or federal government. Examples of locally controlled
26 government assistance include, but are not limited to, Community
27 Development Block Grant Program (42 U.S.C. Sec. 5301 and
28 following) funds allocated to a city or county, Home Investment
29 Partnership Program (42 U.S.C. Sec. 12721 and following) funds
30 allocated to a city or county, fees or funds received by a city or
31 county pursuant to a city or county authorized program, and the
32 waiver or deferral of city or other charges.

33 SEC. 10. Section 33334.14 of the Health and Safety Code is
34 amended to read:

35 33334.14. (a) The covenants or restrictions imposed by the
36 agency pursuant to subdivision (e) of Section 33334.3 may be
37 subordinated under any of the following alternatives:

38 (1) To a lien, encumbrance, or regulatory agreement under a
39 federal or state program when a federal or state agency is providing
40 financing, refinancing, or other assistance to the housing units or

1 parcels, if the federal or state agency refuses to consent to the
2 seniority of the agency's covenant or restriction on the basis that
3 it is required to maintain its lien, encumbrance, or regulatory
4 agreement or restrictions due to statutory or regulatory
5 requirements, adopted or approved policies, or other guidelines
6 pertaining to the financing, refinancing, or other assistance of the
7 housing units or parcels.

8 (2) To a lien, encumbrance, or regulatory agreement of a lender
9 other than the agency or from a bond issuance providing financing,
10 refinancing, or other assistance of owner-occupied units or parcels
11 where the agency makes a finding that an economically feasible
12 alternative method of financing, refinancing, or assisting the units
13 or parcels on substantially comparable terms and conditions, but
14 without subordination, is not reasonably available.

15 (3) To an existing lien, encumbrance, or regulatory agreement
16 of a lender other than the agency or from a bond issuance providing
17 financing, refinancing, or other assistance of rental units, where
18 the agency's funds are utilized for rehabilitation of the rental units.

19 (4) To a lien, encumbrance, or regulatory agreement of a lender
20 other than the agency or from a bond issuance providing financing,
21 refinancing, or other assistance of rental units or parcels where the
22 agency makes a finding that an economically feasible alternative
23 method of financing, refinancing, or assisting the units or parcels
24 on substantially comparable terms and conditions, but without
25 subordination, is not reasonably available, and where the agency
26 obtains written commitments reasonably designed to protect the
27 agency's investment in the event of default, including, but not
28 limited to, any of the following:

29 (A) A right of the agency to cure a default on the loan.

30 (B) A right of the agency to negotiate with the lender after
31 notice of default from the lender.

32 (C) An agreement that if prior to foreclosure of the loan, the
33 agency takes title to the property and cures the default on the loan,
34 the lender will not exercise any right it may have to accelerate the
35 loan by reason of the transfer of title to the agency.

36 (D) A right of the agency to purchase property from the owner
37 at any time after a default on the loan.

38 (b) Notwithstanding the definition of "construction and
39 rehabilitation" in subdivision (a) of Section 33487, an agency that
40 has merged redevelopment projects pursuant to Article 16

(commencing with Section 33485) of Chapter 4, and that is required to deposit taxes into the Low and Moderate Income Housing Fund pursuant to subdivision (a) of Section 33487, may use any of the funds for the purposes and in the manner permitted by Sections 33334.2 and 33334.3. Nothing in this subdivision shall allow an agency with merged project areas pursuant to Article 16 (commencing with Section 33485) to utilize the provisions of paragraph (1), (2), or (3) of subdivision (a) of Section 33334.2 so as to avoid or reduce its obligations to deposit taxes from merged project areas into the Low and Moderate Income Housing Fund.

SEC. 11. Section 33334.22 of the Health and Safety Code is amended to read:

33334.22. (a) The Legislature finds and declares that in order to avoid serious economic hardships and accompanying blight, it is necessary to enact this section, which shall apply only within Santa Cruz County, and which is enacted for the purpose of providing housing assistance to very low, lower, and moderate-income households.

(b) Notwithstanding Section 50052.5, any redevelopment agency within Santa Cruz County may make assistance available from its low- and moderate-income housing fund directly to a homebuyer for the purchase of an owner-occupied home, and for purposes of that assistance and this section, “affordable housing cost” shall not exceed the following:

(1) For very low income households, the product of 40 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 40 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that the affordable housing cost not exceed 40 percent of the gross income of the household.

(3) For moderate income households, affordable housing cost shall not exceed the product of 40 percent times 110 percent of the area median income adjusted for family size appropriate for the

1 unit. In addition, for any moderate-income household that has a
2 gross income that exceeds 110 percent of the area median income
3 adjusted for family size, it shall be optional for any state or local
4 funding agency to require that affordable housing cost not exceed
5 40 percent of the gross income of the household.

6 (c) Any agency in Santa Cruz County that provides assistance
7 pursuant to this section shall include in the annual report to the
8 Controller, pursuant to Sections 33080 and 33080.1, all of the
9 following information:

10 (1) The sales prices of homes purchased with assistance from
11 the agency's Low and Moderate Income Housing Fund for each
12 year from 2000 to 2004, inclusive.

13 (2) The sales prices of homes purchased and rehabilitated with
14 assistance from the agency's Low and Moderate Income Housing
15 Fund for each year from 2000 to 2004, inclusive.

16 (3) The incomes, and percentage of income paid for housing
17 costs, of all households that purchased, and that purchased and
18 rehabilitated, homes with assistance from the agency's Low and
19 Moderate Income Housing Fund for each year from 2000 to 2004,
20 inclusive.

21 (d) Except as provided in subdivision (b), all provisions of
22 Section 50052.5, including any definitions, requirements,
23 standards, and regulations adopted to implement those provisions,
24 shall apply to this section.

25 (e) This section shall remain in effect only until January 1,
26 2005, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2005, deletes or extends that date.

28 SEC. 12. Section 33334.28 is added to the Health and Safety
29 Code, to read:

30 33334.28. (a) Until January 1, 2012, subdivision (b) of
31 Section 33334.4 shall not apply to the Redevelopment Agency of
32 the City of Covina insofar as it exceeds the authorized ratio due
33 exclusively to the use of Low and Moderate Income Housing Fund
34 moneys to continue to provide rental subsidies to households with
35 members over the age of 65 years if those rental subsidies were
36 initially provided to these households prior to January 1, 2002.

37 (b) This section shall remain in effect only until January 1,
38 2012, and as of that date is repealed, unless a later enacted statute,
39 that is enacted before January 1, 2012, deletes or extends that date.

1 SEC. 13. Section 33411.3 of the Health and Safety Code is
2 amended to read:

3 33411.3. Whenever all or any portion of a redevelopment
4 project is developed with low- or moderate-income housing units
5 and whenever any low- or moderate-income housing units are
6 developed with any agency assistance or pursuant to Section
7 33413, the agency shall require by contract or other appropriate
8 means that the housing be made available for rent or purchase to
9 the persons and families of low or moderate income displaced by
10 the redevelopment project. Those persons and families shall be
11 given priority in renting or buying that housing. However, failure
12 to give that priority shall not affect the validity of title to real
13 property. The agency shall keep a list of persons and families of
14 low and moderate income displaced by the redevelopment project
15 who are to be given priority, and may establish reasonable rules for
16 determining the order or priority on the list.

17 SEC. 14. Section 33411.5 of the Health and Safety Code is
18 repealed.

19 SEC. 15. Section 33413 of the Health and Safety Code, as
20 amended by Section 11.5 of Chapter 741 of the Statutes of 2001,
21 is amended to read:

22 33413. (a) Whenever dwelling units housing persons and
23 families of low or moderate income are destroyed or removed
24 from the low- and moderate-income housing market as part of a
25 redevelopment project that is subject to a written agreement with
26 the agency or where financial assistance has been provided by the
27 agency, the agency shall, within four years of the destruction or
28 removal, rehabilitate, develop, or construct, or cause to be
29 rehabilitated, developed, or constructed, for rental or sale to
30 persons and families of low or moderate income, an equal number
31 of replacement dwelling units that have an equal or greater number
32 of bedrooms as those destroyed or removed units at affordable
33 housing costs within the territorial jurisdiction of the agency.
34 When dwelling units are destroyed or removed after September 1,
35 1989, 75 percent of the replacement dwelling units shall replace
36 dwelling units available at affordable housing cost in the or a lower
37 income level of very low income households, lower income
38 households, and persons and families of low and moderate income,
39 as the persons displaced from those destroyed or removed units.
40 When dwelling units are destroyed or removed on or after January

1 1, 2002, 100 percent of the replacement dwelling units shall be
2 available at affordable housing cost to persons in the same or a
3 lower income category (low, very low, or moderate), as the persons
4 displaced from those destroyed or removed units.

5 (b) (1) Prior to the time limit on the effectiveness of the
6 redevelopment plan established pursuant to Sections 33333.2,
7 33333.6, and 33333.10 at least 30 percent of all new and
8 substantially rehabilitated dwelling units developed by an agency
9 shall be available at affordable housing cost to, and occupied by,
10 persons and families of low or moderate income. Not less than 50
11 percent of the dwelling units required to be available at affordable
12 housing cost to, and occupied by, persons and families of low or
13 moderate income shall be available at affordable housing cost to,
14 and occupied by, very low income households.

15 (2) (A) (i) Prior to the time limit on the effectiveness of the
16 redevelopment plan established pursuant to Section 33333.2,
17 33333.6, and 33333.10 at least 15 percent of all new and
18 substantially rehabilitated dwelling units developed within a
19 project area under the jurisdiction of an agency by public or private
20 entities or persons other than the agency shall be available at
21 affordable housing cost to, and occupied by, persons and families
22 of low or moderate income. Not less than 40 percent of the
23 dwelling units required to be available at affordable housing cost
24 to, and occupied by, persons and families of low or moderate
25 income shall be available at affordable housing cost to, and
26 occupied by, very low income households.

27 (ii) To satisfy this paragraph, in whole or in part, the agency
28 may cause, by regulation or agreement, to be available, at
29 affordable housing cost, to, and occupied by, persons and families
30 of low or moderate income or to very low income households, as
31 applicable, two units outside a project area for each unit that
32 otherwise would have been required to be available inside a project
33 area.

34 (iii) On or after January 1, 2002, as used in this paragraph and
35 in paragraph (1), “substantially rehabilitated dwelling units”
36 means all units substantially rehabilitated, with agency assistance.
37 Prior to January 1, 2002, “substantially rehabilitated dwelling
38 units” shall mean substantially rehabilitated multifamily rented
39 dwelling units with three or more units regardless of whether there

1 is agency assistance, or substantially rehabilitated, with agency
2 assistance, single-family dwelling units with one or two units.

3 (iv) As used in this paragraph and in paragraph (1),
4 “substantial rehabilitation” means rehabilitation, the value of
5 which constitutes 25 percent of the after rehabilitation value of the
6 dwelling, inclusive of the land value.

7 (v) To satisfy this paragraph, the agency may aggregate new or
8 substantially rehabilitated dwelling units in one or more project
9 areas, if the agency finds, based on substantial evidence, after a
10 public hearing, that the aggregation will not cause or exacerbate
11 racial, ethnic, or economic segregation.

12 (B) To satisfy the requirements of paragraph (1) and
13 subparagraph (A), the agency may purchase, or otherwise acquire
14 or cause by regulation or agreement the purchase or other
15 acquisition of, long-term affordability covenants on multifamily
16 units that restrict the cost of renting or purchasing those units that
17 either: (i) are not presently available at affordable housing cost to
18 persons and families of low or very low income households, as
19 applicable; or (ii) are units that are presently available at affordable
20 housing cost to this same group of persons or families, but are units
21 that the agency finds, based upon substantial evidence, after a
22 public hearing, cannot reasonably be expected to remain
23 affordable to this same group of persons or families.

24 (C) To satisfy the requirements of paragraph (1) and
25 subparagraph (A), the long-term affordability covenants
26 purchased or otherwise acquired pursuant to subparagraph (B)
27 shall be required to be maintained on dwelling units at affordable
28 housing cost to, and occupied by, persons and families of low or
29 very low income, for the longest feasible time but not less than 55
30 years for rental units and 45 years for owner-occupied units. Not
31 more than 50 percent of the units made available pursuant to
32 paragraph (1) and subparagraph (A) may be assisted through the
33 purchase or acquisition of long-term affordability covenants
34 pursuant to subparagraph (B). Not less than 50 percent of the units
35 made available through the purchase or acquisition of long-term
36 affordability covenants pursuant to subparagraph (B) shall be
37 available at affordable housing cost to, and occupied by, very low
38 income households.

39 (3) The requirements of this subdivision shall apply
40 independently of the requirements of subdivision (a). The

1 requirements of this subdivision shall apply, in the aggregate, to
2 housing made available pursuant to paragraphs (1) and (2),
3 respectively, and not to each individual case of rehabilitation,
4 development, or construction of dwelling units, unless an agency
5 determines otherwise.

6 (4) Each redevelopment agency, as part of the implementation
7 plan required by Section 33490, shall adopt a plan to comply with
8 the requirements of this subdivision for each project area. The plan
9 shall be consistent with, and may be included within, the
10 community's housing element. The plan shall be reviewed and, if
11 necessary, amended at least every five years in conjunction with
12 either the housing element cycle or the plan implementation cycle.
13 The plan shall ensure that the requirements of this subdivision are
14 met every 10 years. If the requirements of this subdivision are not
15 met by the end of each 10-year period, the agency shall meet these
16 goals on an annual basis until the requirements for the 10-year
17 period are met. If the agency has exceeded the requirements within
18 the 10-year period, the agency may count the units that exceed the
19 requirement in order to meet the requirements during the next
20 10-year period. The plan shall contain the contents required by
21 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

22 (c) (1) The agency shall require that the aggregate number of
23 replacement dwelling units and other dwelling units rehabilitated,
24 developed, constructed, or price-restricted pursuant to subdivision
25 (a) or (b) remain available at affordable housing cost to, and
26 occupied by, persons and families of low-income,
27 moderate-income, and very low income households, respectively,
28 for the longest feasible time, but for not less than 55 years for rental
29 units and 45 years for homeownership units, except as set forth in
30 paragraph (2).

31 (2) Notwithstanding paragraph (1), the agency may permit
32 sales of owner-occupied units prior to the expiration of the 45-year
33 period established by the agency for a price in excess of that
34 otherwise permitted under this subdivision pursuant to an adopted
35 program that protects the agency's investment of moneys from the
36 Low and Moderate Income Housing Fund, including, but not
37 limited to, an equity sharing program that establishes a schedule
38 of equity sharing that permits retention by the seller of a portion
39 of those excess proceeds, based on the length of occupancy. The
40 remainder of the excess proceeds of the sale shall be allocated to

1 the agency, and deposited into the Low and Moderate Income
2 Housing Fund. The agency shall, within three years from the date
3 of sale of units pursuant to this paragraph, expend funds to make
4 affordable an equal number of units at the same income level as
5 units sold pursuant to this paragraph. Only the units originally
6 assisted by the agency shall be counted towards the agency's
7 obligations under Section 33413.

8 (3) The requirements of this section shall be made enforceable
9 in the same manner as provided in paragraph (2) of subdivision (f)
10 of Section 33334.3.

11 (4) If land on which the dwelling units required by this section
12 are located is deleted from the project area, the agency shall
13 continue to require that those units remain affordable as specified
14 in this subdivision.

15 (d) (1) This section applies only to redevelopment projects for
16 which a final redevelopment plan is adopted pursuant to Article 5
17 (commencing with Section 33360) on or after January 1, 1976, and
18 to areas that are added to a project area by amendment to a final
19 redevelopment plan adopted on or after January 1, 1976. In
20 addition, subdivision (a) shall apply to any other redevelopment
21 project with respect to dwelling units destroyed or removed from
22 the low- and moderate-income housing market on or after January
23 1, 1996, irrespective of the date of adoption of a final
24 redevelopment plan or an amendment to a final redevelopment
25 plan adding areas to a project area. Additionally, any agency may,
26 by resolution, elect to make all or part of the requirements of this
27 section applicable to any redevelopment project of the agency for
28 which the final redevelopment plan was adopted prior to January
29 1, 1976. In addition, subdivision (b) shall apply to redevelopment
30 plans adopted prior to January 1, 1976, for which an amendment
31 is adopted pursuant to Section 33333.10, except that subdivision
32 (b) shall apply to those redevelopment plans prospectively only so
33 that the requirements of subdivision (b) shall apply only to new
34 and substantially rehabilitated dwelling units for which the
35 building permits are issued on or after the date that the ordinance
36 adopting the amendment pursuant to Section 33333.10 becomes
37 effective.

38 (2) An agency may, by resolution, elect to require that
39 whenever dwelling units housing persons or families of low or
40 moderate income are destroyed or removed from the low- and

1 moderate-income housing market as part of a redevelopment
2 project, the agency shall replace each dwelling unit with up to three
3 replacement dwelling units pursuant to subdivision (a).

4 (e) Except as otherwise authorized by law, this section does not
5 authorize an agency to operate a rental housing development
6 beyond the period reasonably necessary to sell or lease the housing
7 development.

8 (f) Notwithstanding subdivision (a), the agency may replace
9 destroyed or removed dwelling units with a fewer number of
10 replacement dwelling units if the replacement dwelling units meet
11 both of the following criteria:

12 (1) The total number of bedrooms in the replacement dwelling
13 units equals or exceeds the number of bedrooms in the destroyed
14 or removed units. Destroyed or removed units having one or no
15 bedroom are deemed for this purpose to have one bedroom.

16 (2) The replacement units are affordable to and occupied by the
17 same income level of households as the destroyed or removed
18 units.

19 (g) “Longest feasible time,” as used in this section, includes,
20 but is not limited to, unlimited duration.

21 (h) This section shall remain in effect only until January 1,
22 2006, and as of that date is repealed, unless a later enacted statute,
23 that is enacted before January 1, 2006, deletes or extends that date.

24 SEC. 16. Section 33413 of the Health and Safety Code, as
25 amended by Section 11.6 of Chapter 741 of the Statutes of 2001,
26 is amended to read:

27 33413. (a) Whenever dwelling units housing persons and
28 families of low or moderate income are destroyed or removed
29 from the low- and moderate-income housing market as part of a
30 redevelopment project that is subject to a written agreement with
31 the agency or where financial assistance has been provided by the
32 agency, the agency shall, within four years of the destruction or
33 removal, rehabilitate, develop, or construct, or cause to be
34 rehabilitated, developed, or constructed, for rental or sale to
35 persons and families of low or moderate income, an equal number
36 of replacement dwelling units that have an equal or greater number
37 of bedrooms as those destroyed or removed units at affordable
38 housing cost within the territorial jurisdiction of the agency. When
39 dwelling units are destroyed or removed after September 1, 1989,
40 75 percent of the replacement dwelling units shall replace dwelling

units available at affordable housing cost to, and occupied by, persons in the same or a lower income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units. When dwelling units are destroyed or removed after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to, and occupied by, persons in the same or a lower income category (low, very low, or moderate) as the persons displaced from those destroyed or removed units.

(b) (1) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10, at least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) (A) (i) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10, at least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(ii) To satisfy this paragraph, in whole or in part, the agency may cause, by regulation or agreement, to be available, at affordable housing cost to, and occupied by, persons and families of low or moderate income or to very low income households, as applicable, two units outside a project area for each unit that otherwise would have had to be available inside a project area.

(iii) To satisfy the provisions of this paragraph, the agency may aggregate new or rehabilitated dwelling units in one or more project areas, if the agency finds, based on substantial evidence,

1 after a public hearing, that the aggregation will not cause or
2 exacerbate racial, ethnic, or economic segregation.

3 (B) To satisfy the requirements of paragraph (1) and
4 subparagraph (A), the agency may purchase or otherwise acquire
5 or cause by regulation or agreement the purchase or other
6 acquisition of long-term affordability covenants on multifamily
7 units that restrict the cost of renting or purchasing those units that
8 either: (i) are not presently available at affordable housing cost to
9 persons and families of low or very low income households, as
10 applicable; or (ii) are units that are presently available at affordable
11 housing cost to this same group of persons or families, but are units
12 that the agency finds, based upon substantial evidence, after a
13 public hearing, cannot reasonably be expected to remain
14 affordable to this same group of persons or families.

15 (C) To satisfy the requirements of paragraph (1) and
16 subparagraph (A), the long-term affordability covenants
17 purchased or otherwise acquired pursuant to subparagraph (B)
18 shall be required to be maintained on dwelling units at affordable
19 housing cost to, and occupied by, persons and families of low or
20 very low income, for the longest feasible time but not less than 55
21 years for rental units and 45 years for owner-occupied units. Not
22 more than 50 percent of the units made available pursuant to
23 paragraph (1) and subparagraph (A) may be assisted through the
24 purchase of acquisition of long-term affordability covenants
25 pursuant to subparagraph (B). Not less than 50 percent of the units
26 made available through the purchase or acquisition of long-term
27 affordability covenants pursuant to subparagraph (B) shall be
28 available at affordable housing cost to, and occupied by, very low
29 income households.

30 (3) The requirements of this subdivision shall apply
31 independently of the requirements of subdivision (a). The
32 requirements of this subdivision shall apply in the aggregate to
33 housing made available pursuant to paragraphs (1) and (2),
34 respectively, and not to each individual case of rehabilitation,
35 development, or construction of dwelling units.

36 (4) Each redevelopment agency, as part of the implementation
37 plan required by Section 33490, shall adopt a plan to comply with
38 the requirements of this subdivision for each project area. The plan
39 shall be consistent with, and may be included within, the
40 community's housing element. The plan shall be reviewed and, if



necessary, amended at least every five years in conjunction with either the housing element cycle or the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

(c) (1) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to, and occupied by, persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, but for not less than 55 years for rental units and 45 years for homeownership units, except for the following:

(2) Notwithstanding paragraph (1), the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds, based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited into the Low and Moderate Income Housing Fund. The agency shall, within three years from the date of sale of units under this paragraph, expend funds to make affordable an equal number of units at the same income level as units sold under this paragraph. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

(3) The requirements of this section shall be made enforceable in the same manner as provided in paragraph (2) of subdivision (f) of Section 33334.3.

1 (4) If land on which dwelling units required by this section are
2 located is deleted from the project area, the agency shall continue
3 to require that those units remain affordable as specified in this
4 subdivision.

5 (d) (1) This section applies only to redevelopment projects for
6 which a final redevelopment plan is adopted pursuant to Article 5
7 (commencing with Section 33360) on or after January 1, 1976, and
8 to areas which are added to a project area by amendment to a final
9 redevelopment plan adopted on or after January 1, 1976. In
10 addition, subdivision (a) shall apply to any other redevelopment
11 project with respect to dwelling units destroyed or removed from
12 the low- and moderate-income housing market on or after January
13 1, 1996, irrespective of the date of adoption of a final
14 redevelopment plan or an amendment to a final redevelopment
15 plan adding areas to a project area. Additionally, any agency may,
16 by resolution, elect to make all or part of the requirements of this
17 section applicable to any redevelopment project of the agency for
18 which the final redevelopment plan was adopted prior to January
19 1, 1976. In addition, subdivision (b) shall apply to redevelopment
20 plans adopted prior to January 1, 1976, for which an amendment
21 is adopted pursuant to Section 33333.10, except that subdivision
22 (b) shall apply to those redevelopment plans prospectively only so
23 that the requirements of subdivision (b) shall apply only to new
24 and rehabilitated or substantially rehabilitated dwelling units, as
25 applicable, for which the building permits are issued on or after the
26 date that the ordinance adopting the amendment pursuant to
27 Section 33333.10 becomes effective.

28 (2) An agency may, by resolution, elect to require that
29 whenever dwelling units housing persons or families of low or
30 moderate income are destroyed or removed from the low- and
31 moderate-income housing market as part of a redevelopment
32 project, the agency shall replace each dwelling unit with up to three
33 replacement dwelling units pursuant to subdivision (a).

34 (e) Except as otherwise authorized by law, this section does not
35 authorize an agency to operate a rental housing development
36 beyond the period reasonably necessary to sell or lease the housing
37 development.

38 (f) Notwithstanding subdivision (a), the agency may replace
39 destroyed or removed dwelling units with a fewer number of

1 replacement dwelling units if the replacement dwelling units meet
2 both of the following criteria:

3 (1) The total number of bedrooms in the replacement dwelling
4 units equals or exceeds the number of bedrooms in the destroyed
5 or removed units. Destroyed or removed units having one or no
6 bedroom are deemed for this purpose to have one bedroom.

7 (2) The replacement units are affordable to and occupied by the
8 same income level of households as the destroyed or removed
9 units.

10 (g) “Longest feasible time,” as used in this section, includes,
11 but is not limited to, unlimited duration.

12 (h) This section shall become operative on January 1, 2006.

13 SEC. 17. Section 33413.5 of the Health and Safety Code, as
14 added by Chapter 491 of the Statutes of 2001, is amended and
15 renumbered to read:

16 33413.6. (a) To satisfy the requirements of paragraphs (1)
17 and (2) of subdivision (b) of Section 33413, the Redevelopment
18 Agency for the City of Lancaster, until January 1, 2006, may
19 purchase, or otherwise acquire or cause by regulation or agreement
20 the purchase or other acquisition of, long-term affordability
21 covenants on mobilehome parks in which residents rent spaces and
22 either rent or own the mobilehome occupying their spaces, that
23 restrict the cost of renting or purchasing those units that either: (1)
24 are units that are presently available at affordable housing cost to
25 this same group of persons or families, but are units that the agency
26 finds, based upon substantial evidence, after a public hearing,
27 cannot reasonably be expected to remain affordable to this same
28 group of persons or families; or (2) are not presently available at
29 affordable housing cost to persons and families of low- or very low
30 income households, as applicable.

31 (b) The long-term affordability covenants purchased or
32 otherwise acquired on a mobilehome park shall be required to be
33 maintained on the mobilehome park at affordable housing cost for
34 occupancy by persons and families of low and very low income for
35 the longest feasible time, but for not less than 55 years.

36 The long-term affordability covenants purchased or otherwise
37 acquired on the mobilehome parks shall also comply with the
38 requirements applicable to long-term affordability covenants
39 purchased or acquired pursuant to subparagraphs (B) and (C) of
40 paragraph (2) of subdivision (b) of Section 33413.

(c) For the purposes of this section, affordable housing costs with respect to mobilehome parks shall be determined in the same manner as multifamily rental housing, except that the calculation of the affordable housing cost to persons and families in mobilehome parks shall include the combined cost of all of the following:

(1) All costs for rental or purchase of the mobilehome park space, including homeowners association fees, special assessments, and required space maintenance.

(2) All costs for purchase or lease of the mobilehome coach, including principal and interest on any mortgage, property taxes, vehicle registration, and other fees.

(3) Insurance on the coach, not including its contents.

(4) Utilities.

The long-term affordability covenants with respect to a mobilehome park shall include a provision that space rents shall not be increased in a manner that results in the displacement of any park tenants residing within the mobilehome park at the time of the purchase, acquisition, regulation, or agreement resulting in the long-term affordability covenants.

(d) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 18. Section 33413.8 is added to the Health and Safety Code, to read:

33413.8. (a) To satisfy the requirements of paragraphs (1) and (2) of subdivision (b) of Section 33413, the Redevelopment Agency of the City of Fairfield, until January 1, 2006, may purchase or otherwise acquire, or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on mobilehome parks in which residents rent spaces and either rent or own the mobilehome occupying their spaces, that restrict the cost of renting or purchasing those units if all of the following criteria are met:

(1) On and after January 1, 1990, and based on substantial evidence, the agency provided assistance to a mobilehome park that was then available at affordable housing cost to very low, or low-income persons or families but which could not reasonably be expected to remain affordable to this same group of persons or families.

1 (2) The agency assistance enabled the residents of the
2 mobilehome park to acquire ownership of the mobilehome park.

3 (3) At the time of providing the assistance, the agency required
4 that affordability covenants be recorded for the mobilehome park.

5 (4) On and after January 1, 2003, the agency provides
6 additional assistance to the mobilehome park and the long-term
7 affordability covenants are extended for the longest feasible time,
8 but for not less than 55 years.

9 (b) The long-term affordability covenants on mobilehome
10 parks, as extended pursuant to subdivision (a), shall also comply
11 with the requirements applicable to long-term affordability
12 covenants purchased or acquired pursuant to subparagraphs (B)
13 and (C) of paragraph (2) of subdivision (b) of Section 33413.

14 (c) For purposes of this section, affordable housing costs with
15 respect to mobilehome parks shall be determined in the same
16 manner as multifamily rental housing, except that the calculation
17 of the affordable housing cost to persons and families in
18 mobilehome parks shall include the combined cost of all of the
19 following:

20 (1) All costs for purchase or lease of the mobilehome park
21 space, including homeowners' association fees, special
22 assessments, and required space maintenance.

23 (2) All costs for purchase or lease of the mobilehome coach,
24 including principal and interest on any mortgage, property taxes,
25 vehicle registration, and other fees.

26 (3) Insurance on the coach, not including its contents.

27 (4) Utilities.

28 (d) The long-term affordability covenants with respect to a
29 mobilehome park shall include a provision that space rents shall
30 not be increased in a manner that results in the displacement of any
31 park tenants residing within the mobilehome park at the time of the
32 purchase, acquisition, regulation, or agreement resulting in the
33 extension of the long-term affordability covenants.

34 (e) This section shall remain in effect only until January 1,
35 2006, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, 2006, deletes or extends that date.

37 SEC. 19. Section 33487 of the Health and Safety Code is
38 amended to read:

39 33487. (a) Subject to subdivisions (a) and (b) of Section
40 33486, not less than 20 percent of all taxes that are allocated to the

1 redevelopment agency pursuant to Section 33670 for
2 redevelopment projects merged pursuant to this article,
3 irrespective of the date of adoption of the final redevelopment
4 plans, shall be deposited by the agency in the Low and Moderate
5 Income Housing Fund established pursuant to Section 33334.3, or
6 which shall be established for purposes of this section. The agency
7 shall use the moneys in this fund to assist in the construction or
8 rehabilitation of housing units that will be available to, or occupied
9 by, persons and families of low or moderate income, as defined in
10 Section 50093, and very low income households, as defined in
11 Section 50105, for the longest feasible time period but not less than
12 55 years for rental units and 45 years for owner-occupied units. For
13 the purposes of this subdivision, “construction and rehabilitation”
14 shall include acquisition of land, improvements to land; the
15 acquisition, rehabilitation, or construction of structures; or the
16 provision of subsidies necessary to provide housing for persons
17 and families of low or moderate income, as defined in Section
18 50093, and very low income households, as defined in Section
19 50105.

20 (b) The agency may use the funds set aside by subdivision (a)
21 inside or outside the project area. However, the agency may only
22 use these funds outside the project area upon a resolution of the
23 agency and the legislative body that the use will be of benefit to the
24 project. This determination by the agency and the legislative body
25 shall be final and conclusive as to the issue of benefit to the project
26 area. The Legislature finds and declares that the provision of
27 replacement housing pursuant to Section 33413 is of benefit to a
28 project.

29 The Legislature finds and declares that expenditures or
30 obligations incurred by the agency pursuant to this section shall
31 constitute an indebtedness of the project.

32 (c) If moneys deposited in the Low and Moderate Income
33 Housing Fund pursuant to this section have not been committed for
34 the purposes specified in subdivisions (a) and (b) for a period of
35 six years following deposit in that fund, the agency shall offer
36 these moneys to the housing authority that operates within the
37 jurisdiction of the agency, if activated pursuant to Section 34240,
38 for the purpose of constructing or rehabilitating housing as
39 provided in subdivisions (a) and (b). However, if no housing



1 authority operates within the jurisdiction of the agency, the agency
2 may retain these moneys for use pursuant to this section.

3 (d) If the agency deposits less than 20 percent of taxes allocated
4 pursuant to Section 33670, due to the provisions of subdivisions
5 (a) and (b) of Section 33486, in any fiscal year, a deficit shall be
6 created in the Low and Moderate Income Housing Fund in an
7 amount equal to the difference between 20 percent of the taxes
8 allocated pursuant to Section 33670 and the amount deposited in
9 that year. The deficit, if any, created pursuant to this section
10 constitutes an indebtedness of the project. The agency shall
11 eliminate the deficit by expending taxes allocated in years
12 subsequent to creation of the deficit and, until the time when that
13 deficit has been eliminated, an agency shall not incur new
14 obligations for purposes other than those set forth in Section
15 33487, except to comply with the terms of any resolution or other
16 agreement pledging taxes allocated pursuant to Section 33670 that
17 existed on the date of merger pursuant to this article.

18 (e) Notwithstanding subdivision (d) of Section 33413, any
19 agency that merges its redevelopment project areas pursuant to this
20 article shall be subject to subdivisions (a) and (c) of Section 33413.

21 SEC. 20. Section 33490 of the Health and Safety Code is
22 amended to read:

23 33490. (a) (1) (A) On or before December 31, 1994, and
24 each five years thereafter, each agency that has adopted a
25 redevelopment plan prior to December 31, 1993, shall adopt, after
26 a public hearing, an implementation plan that shall contain the
27 specific goals and objectives of the agency for the project area, the
28 specific programs, including potential projects, and estimated
29 expenditures proposed to be made during the next five years, and
30 an explanation of how the goals and objectives, programs, and
31 expenditures will eliminate blight within the project area and
32 implement the requirements of Section 33333.10, if applicable,
33 and Sections 33334.2, 33334.4, 33334.6, and 33413. After
34 adoption of the first implementation plan, the parts of the
35 implementation plan that address Section 33333.10, if applicable,
36 and Sections 33334.2, 33334.4, 33334.6, and 33413 shall be
37 adopted every five years either in conjunction with the housing
38 element cycle or the implementation plan cycle. The agency may
39 amend the implementation plan after conducting a public hearing
40 on the proposed amendment. If an action attacking the adoption,

1 approval, or validity of a redevelopment plan adopted prior to
2 January 1, 1994, has been brought pursuant to Chapter 5
3 (commencing with Section 33500), the first implementation plan
4 required pursuant to this section shall be adopted within six
5 months after a final judgment or order has been entered.
6 Subsequent implementation plans required pursuant to this section
7 shall be adopted pursuant to the terms of this section, and as if the
8 first implementation plan had been adopted on or before
9 December 31, 1994.

10 (B) Adoption of an implementation plan shall not constitute an
11 approval of any specific program, project, or expenditure and shall
12 not change the need to obtain any required approval of a specific
13 program, project, or expenditure from the agency or community.
14 The adoption of an implementation plan shall not constitute a
15 project within the meaning of Section 21000 of the Public
16 Resources Code. However, the inclusion of a specific program,
17 potential project, or expenditure in an implementation plan
18 prepared pursuant to subdivision (c) of Section 33352 in
19 conjunction with a redevelopment plan adoption shall not
20 eliminate analysis of those programs, potential projects, and
21 expenditures in the environmental impact report prepared
22 pursuant to subdivision (k) of Section 33352 to the extent that it
23 would be otherwise required. In addition, the inclusion of
24 programs, potential projects, and expenditures in an
25 implementation plan shall not eliminate review pursuant to the
26 California Environmental Quality Act (Division 13 (commencing
27 with Section 21000) of the Public Resources Code), at the time of
28 the approval of the program, project, or expenditure, to the extent
29 that it would be otherwise required.

30 (2) (A) A portion of the implementation plan shall address the
31 agency housing responsibilities and shall contain a section
32 addressing Section 33333.10, if applicable, and Sections 33334.2,
33 33334.4, and 33334.6, the Low and Moderate Income Housing
34 Fund, and, if subdivision (b) of Section 33413 applies, a section
35 addressing agency-developed and project area housing. The
36 section addressing the Low and Moderate Income Housing Fund
37 shall contain:

38 (i) The amount available in the Low and Moderate Income
39 Housing Fund and the estimated amounts which will be deposited



1 in the Low and Moderate Income Housing Fund during each of the
2 next five years.

3 (ii) A housing program with estimates of the number of new,
4 rehabilitated, or price-restricted units to be assisted during each of
5 the five years and estimates of the expenditures of moneys from
6 the Low and Moderate Income Housing Fund during each of the
7 five years.

8 (iii) A description of how the housing program will implement
9 the requirement for expenditures of moneys in the Low and
10 Moderate Income Housing Fund over a 10-year period for various
11 groups as required by Section 33334.4. For project areas to which
12 subdivision (b) of Section 33413 applies, the 10-year period
13 within which Section 33334.4 is required to be implemented shall
14 be the same 10-year period within which subdivision (b) of Section
15 33413 is required to be implemented. Notwithstanding the first
16 sentence of Section 33334.4 and the first sentence of this clause,
17 in order to allow these two 10-year time periods to coincide for the
18 first time period, the time to implement the requirements of
19 Section 33334.4 shall be extended two years, and project areas in
20 existence on December 31, 1993, shall implement the
21 requirements of Section 33334.4 on or before December 31, 2014,
22 and each 10 years thereafter rather than December 31, 2012. For
23 project areas to which subdivision (b) of Section 33413 does not
24 apply, the requirements of Section 33334.4 shall be implemented
25 on or before December 31, 2014, and each 10 years thereafter.

26 (iv) This requirement to include a description of how the
27 housing program will implement Section 33334.4 in the
28 implementation plan shall apply to implementation plans adopted
29 pursuant to subdivision (a) on or after December 31, 2002.

30 (B) For each project area to which subdivision (b) of Section
31 33413 applies, the section addressing the agency developed and
32 project area housing shall contain:

33 (i) Estimates of the number of new, substantially rehabilitated
34 or price-restricted residential units to be developed or purchased
35 within one or more project areas, both over the life of the plan and
36 during the next 10 years.

37 (ii) Estimates of the number of units of very low, low-, and
38 moderate-income households required to be developed within one
39 or more project areas in order to meet the requirements of

1 paragraph (2) of subdivision (b) of Section 33413, both over the
2 life of the plan and during the next 10 years.

3 (iii) The number of units of very low, low-, and
4 moderate-income households which have been developed within
5 one or more project areas which meet the requirements of
6 paragraph (2) of subdivision (b) of Section 33413.

7 (iv) Estimates of the number of agency developed residential
8 units which will be developed during the next five years, if any,
9 which will be governed by paragraph (1) of subdivision (b) of
10 Section 33413.

11 (v) Estimates of the number of agency developed units for very
12 low, low-, and moderate-income households which will be
13 developed by the agency during the next five years to meet the
14 requirements of paragraph (1) of subdivision (b) of Section 33413.

15 (C) The section addressing Section 33333.10, if applicable,
16 and Sections ~~and~~ 33334.4 shall contain all of the following:

17 (i) The number of housing units needed for very low income
18 persons, low-income persons, and moderate-income persons as
19 each of those needs have been identified in the most recent
20 determination pursuant to Section 65584 of the Government Code,
21 and the proposed amount of expenditures from the Low and
22 Moderate Income Housing Fund for each income group during
23 each year of the implementation plan period.

24 (ii) The total population of the community and the population
25 under 65 years of age as reported in the most recent census of the
26 United States Census Bureau.

27 (iii) A housing program that provides a detailed schedule of
28 actions the agency is undertaking or intends to undertake to ensure
29 expenditure of the Low and Moderate Income Housing Fund in the
30 proportions required by Section 33333.10, if applicable, and
31 Section ~~and~~ 33334.4.

32 (iv) For the previous implementation plan period, the amounts
33 of Low and Moderate Income Housing Fund moneys utilized to
34 assist units affordable to, and occupied by, extremely low income
35 households, very low income households, and low-income
36 households; the number, the location, and level of affordability of
37 units newly constructed with other locally controlled government
38 assistance and without agency assistance and that are required to
39 be affordable to, and occupied by, persons of low, very low, or
40 extremely low income for at least 55 years for rental housing or 45

years for homeownership housing, and the amount of Low and Moderate Income Housing Fund moneys utilized to assist housing units available to families with children, and the number, location, and level of affordability of those units.

(3) If the implementation plan contains a project that will result in the destruction or removal of dwelling units that will have to be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify proposed locations suitable for those replacement dwelling units.

(4) For a project area that is within six years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of the implementation plan addressing the housing responsibilities shall specifically address the ability of the agency to comply, prior to the time limit on the effectiveness of the redevelopment plan, with subdivision (a) of Section 33333.8, subdivision (a) of Section 33413 with respect to replacement dwelling units, subdivision (b) of Section 33413 with respect to project area housing, and the disposition of the remaining moneys in the Low and Moderate Income Housing Fund.

(b) For a project area for which a redevelopment plan is adopted on or after January 1, 1994, the implementation plan prepared pursuant to subdivision (c) of Section 33352 shall constitute the initial implementation plan and thereafter the agency after a public hearing shall adopt an implementation plan every five years commencing with the fifth year after the plan has been adopted. Agencies may adopt implementation plans that include more than one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. For a project area that is within three years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall specifically address those items in paragraph (4) of

1 subdivision (a). An agency may hold one hearing for two or more
2 project areas if those project areas are included within the same
3 implementation plan.

4 (d) Notice of public hearings conducted pursuant to this section
5 shall be published pursuant to Section 6063 of the Government
6 Code, mailed at least three weeks in advance to all persons and
7 agencies that have requested notice, and posted in at least four
8 permanent places within the project area for a period of three
9 weeks. Publication, mailing, and posting shall be completed not
10 less than 10 days prior to the date set for hearing.

11 SEC. 21. Section 33492.13 of the Health and Safety Code is
12 amended to read:

13 33492.13. (a) A redevelopment plan, adopted pursuant to
14 this chapter and containing the provisions set forth in Section
15 33670, shall contain all of the following limitations:

16 (1) A limitation on the number of dollars of taxes which may
17 be divided and allocated to the redevelopment agency pursuant
18 thereto. Taxes shall not be divided and shall not be allocated to the
19 redevelopment agency beyond this limitation, except by
20 amendment of the redevelopment plan pursuant to Section
21 33354.6, or as necessary to comply with subdivision (a) of Section
22 33333.8.

23 (2) (A) The time limit on the establishing of loans, advances,
24 and indebtedness to be paid with the proceeds of property taxes
25 received pursuant to Section 33670 to finance in whole or in part
26 the redevelopment project, which may not exceed 20 years from
27 the date the county auditor certifies pursuant to Section 33492.9,
28 except by amendment of the redevelopment plan as authorized by
29 subparagraph (B). The loans, advances, or indebtedness may be
30 repaid over a period of time longer than the time limit as provided
31 in this section. No loans, advances, or indebtedness to be repaid
32 from the allocation of taxes shall be established or incurred by the
33 agency beyond this time limitation, except as necessary to comply
34 with subdivision (a) of Section 33333.8.

35 (B) The time limitation established by subparagraph (A) may
36 be extended only by amendment of the redevelopment plan after
37 the agency finds, based on substantial evidence, that (i) substantial
38 blight remains within the project area; (ii) this blight cannot be
39 eliminated without the establishment of additional debt; and (iii)
40 the elimination of blight cannot reasonably be accomplished by

private enterprise acting alone or by the legislative body's use of financing alternatives other than tax increment financing. However, this amended time limitation may not exceed 30 years from the date the county auditor certifies pursuant to Section 33492.9, except as necessary to comply with subdivision (a) of Section 33333.8.

(3) A time limit, not to exceed 30 years from the date the county auditor certifies pursuant to Section 33492.9, on the effectiveness of the redevelopment plan. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, comply with subdivision (a) of Section 33333.8, and enforce existing covenants or contracts.

(4) A time limit, not to exceed 45 years from the date the county auditor certifies pursuant to Section 33492.9, to repay indebtedness with the proceeds of property taxes received pursuant to Section 33670. After the time limit established pursuant to this paragraph, an agency may not receive property taxes pursuant to Section 33670, except as necessary to comply with subdivision (a) of Section 33333.8.

(5) The limitations contained in a redevelopment plan adopted pursuant to this section shall not be applied to limit allocation of taxes to an agency to the extent required to comply with Section 33333.8. In the event of a conflict between these limitations and the obligations under Section 33333.8 the limitation established in the ordinance shall be suspended pursuant to Section 33333.8.

(b) (1) A redevelopment plan, adopted pursuant to this chapter, that does not contain the provisions set forth in Section 33670 shall contain the limitations in paragraph (2).

(2) A time limit, not to exceed 12 years from the date the county auditor certifies pursuant to Section 33492.9, for commencement of eminent domain proceedings to acquire property within the project area. This time limitation may be extended only by amendment of the redevelopment plan.

SEC. 22. Section 50052.5 of the Health and Safety Code is amended to read:

50052.5. (a) For any owner-occupied housing that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable housing

cost” with respect to lower income households may not exceed 25 percent of gross income.

(b) For any owner-occupied housing that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, “affordable housing cost” may not exceed the following:

(1) For extremely low households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(3) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 30 percent of the gross income of the household.

(4) For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.

(c) The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income, adjustments for family size appropriate to the unit, and housing cost for purposes of determining affordable housing cost under this section. These regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision

(f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing development.

(d) With respect to moderate- and lower income households who are tenants of rental housing developments and members or shareholders of cooperative housing developments, or limited equity cooperatives “affordable housing cost” has the same meaning as affordable rent, as defined in Section 50053.

(e) Regulations of the department shall also include a method for determining the maximum construction cost, mortgage loan, or sales price that will make housing available to an income group at affordable housing cost.

(f) For purposes of this section, “area median income” shall mean area median income as published by the department pursuant to Section 50093.

(g) For purposes of this section, “moderate income household” shall have the same meaning as “persons and families of moderate income” as defined in Section 50093.

(h) For purposes of this section, and provided there are no pertinent federal statutes applicable to a project or program, “adjusted for family size appropriate to the unit” shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

SEC. 23. Section 50053 of the Health and Safety Code is amended to read:

50053. (a) For any rental housing development that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, “affordable rent” with respect to lower income households shall not exceed the percentage of the gross income of the occupant person or household established by regulation of the department that shall not be less than 15 percent of gross income nor exceed 25 percent of gross income.

(b) For any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, “affordable rent,” including a reasonable utility allowance, shall not exceed:

1 (1) For extremely low income households the product of 30
2 percent times 30 percent of the area median income adjusted for
3 family size appropriate for the unit.

4 (2) For very low income households, the product of 30 percent
5 times 50 percent of the area median income adjusted for family
6 size appropriate for the unit.

7 (3) For lower income households whose gross incomes exceed
8 the maximum income for very low income households, the
9 product of 30 percent times 60 percent of the area median income
10 adjusted for family size appropriate for the unit. In addition, for
11 those lower income households with gross incomes that exceed 60
12 percent of the area median income adjusted for family size, it shall
13 be optional for any state or local funding agency to require that
14 affordable rent be established at a level not to exceed 30 percent
15 of gross income of the household.

16 (4) For moderate-income households, the product of 30 percent
17 times 110 percent of the area median income adjusted for family
18 size appropriate for the unit. In addition, for those
19 moderate-income households whose gross incomes exceed 110
20 percent of the area median income adjusted for family size, it shall
21 be optional for any state or local funding agency to require that
22 affordable rent be established at a level not to exceed 30 percent
23 of gross income of the household.

24 (c) The department's regulation shall permit alternative
25 percentages of income for agency-assisted rental and cooperative
26 housing developments pursuant to regulations adopted under
27 subdivision (f) of Section 50462. The department shall, by
28 regulation, adopt criteria defining and providing for determination
29 of gross income, adjustments for family size appropriate to the
30 unit, and rent for purposes of this section. These regulations may
31 provide alternative criteria, where necessary, to be consistent with
32 pertinent federal statutes and regulations governing federally
33 assisted rental and cooperative housing. The agency may, by
34 regulation, adopt alternative criteria, and pursuant to subdivision
35 (f) of Section 50462, alternative percentages of income may be
36 adopted for agency-assisted housing developments.

37 For purposes of this section, "area median income,"
38 "adjustments for family size appropriate to the unit," and
39 "moderate-income household" shall have the same meaning as
40 provided in Section 50052.5.

1 SEC. 24. Section 50079.5 of the Health and Safety Code is
2 amended to read:

3 50079.5. (a) “Lower income households” means persons
4 and families whose income does not exceed the qualifying limits
5 for lower income families as established and amended from time
6 to time pursuant to Section 8 of the United States Housing Act of
7 1937. The limits shall be published by the department in the
8 California Code of Regulations as soon as possible after adoption
9 by the Secretary of Housing and Urban Development. In the event
10 the federal standards are discontinued, the department shall, by
11 regulation, establish income limits for lower income households
12 for all geographic areas of the state at 80 percent of area median
13 income, adjusted for family size and revised annually.

14 (b) “Lower income households” includes very low income
15 households, as defined in Section 50105, and extremely low
16 income households, as defined in Section 50106. The addition of
17 this subdivision does not constitute a change in, but is declaratory
18 of, existing law.

19 (c) As used in this section, “area median income” means the
20 median family income of a geographic area of the state.

21 SEC. 25. Section 50105 of the Health and Safety Code is
22 amended to read:

23 50105. (a) “Very low income households” means persons
24 and families whose incomes do not exceed the qualifying limits for
25 very low income families as established and amended from time
26 to time pursuant to Section 8 of the United States Housing Act of
27 1937. These qualifying limits shall be published by the department
28 in the California Code of Regulations as soon as possible after
29 adoption by the Secretary of Housing and Urban Development. In
30 the event the federal standards are discontinued, the department
31 shall, by regulation, establish income limits for very low income
32 households for all geographic areas of the state at 50 percent of
33 area median income, adjusted for family size and revised annually.

34 (b) “Very low income households” includes extremely low
35 income households, as defined in Section 50106. The addition of
36 this subdivision does not constitute a change in, but is declaratory
37 of, existing law.

- 1 (c) As used in this section, “area median income” means the
- 2 median family income of a geographic area of the state.

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